

**DEPARTMENT OF DEVELOPMENTAL SERVICES**

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TO: REGIONAL CENTER EXECUTIVE DIRECTORS AND BOARD PRESIDENTS

SUBJECT: JUNE 2022 TRAILER BILL LANGUAGE AFFECTING REGIONAL CENTERS

The purpose of this correspondence is to provide a summary of the recently enacted Developmental Services Budget Trailer Bill, SB 188 (Chapter 49, Statutes of 2022), which directly impacts regional centers, state operated services and the developmental disabilities services system. The following is a list of areas affected by, or new requirements resulting from, SB 188, and the bill sections where relevant statutory changes can be found:

- [Early Start Eligibility Criteria, Section 5](#)
- [Early Start Part C to B Transition, Sections 2, 3, 4, 8, 9 and 10](#)
- [Early Start Individualized Family Service Plan Reviews and Meetings, Sections 6 and 7](#)
- [Individual Program Plan Meetings, Sections 19 and 20](#)
- [Caseload Ratios for Consumers Age Five and Younger and Consumers with Low or No Purchase of Service Expenditures, Section 18](#)
- [Half-Day Billing for Day Services, Sections 26, 79 and 80](#)
- [Tailored Day Services, Section 25](#)
- [Vouchered Community-Based Training Services, Section 25](#)
- [Alternative Nonresidential Services, Section 27](#)
- [Remote Services and Supports Pilot Project, Section 14](#)
- [Coordinated Family Support Services Pilot Program, Section 24](#)
- [Work Activity Program Three-Year Pilot Program, Section 81](#)
- [Unemployment Insurance Claim Data, Section 11](#)
- [Family Cost Participation Program and Annual Family Program Fee Suspension, Sections 76 and 77](#)
- [Self-Determination Program Financial Management Services Costs and State Council on Developmental Disabilities Report to the Legislature, Section 22](#)
- [Appeals Process, Sections 29-75 and 84](#)
- [Quality Assurance Instrument Contracting Requirements, Section 17](#)
- [Rate Model Implementation, Section 16](#)
- [Home and Community-Based Services Settings Requirements, Section 23](#)
- [Developmental Services Workforce Stabilization \(Training Stipends, Training and Internship Program, Tuition Reimbursement for Regional Center Employees\), Section 28](#)
- [Safety Net Plan Update, Section 13](#)

**“Building Partnerships, Supporting Choices”**

- [Seclusion, Restraint and Involuntary Emergency Medication Reporting, Section 21](#)
- [Institutions for Mental Diseases Quarterly Reporting, Section 12](#)
- [AFDC-FC, ARC, Kin-GAP Data Reporting, Section 83](#)
- [Canyon Springs Community Facility Acute Crisis Admissions, Section 82](#)
- [Fairview Developmental Center Property Use, Section 1](#)

The changes made by SB 188 became effective with the passage of the bill on June 30, 2022, unless otherwise specified. While this correspondence provides a high-level summary of SB 188, a complete and thorough review of the bill is imperative for regional centers' statutory compliance. Regional centers should continue to educate their communities regarding these legislative changes.

### **Early Start Eligibility Criteria**

TBL Section 5: Government Code Section 95014 was amended, making changes to eligibility requirements for early intervention services under the California Early Intervention Services Act (Early Start). Changes include:

1. *Change in Percent of Developmental Delay*  
The definition of "significant difference" was changed from a 33-percent delay to a 25-percent delay in one or more areas of development.
2. *Delays in Communication*  
Communication development was separated into two categories, expressive communication development and receptive communication development, increasing the number of developmental delay areas from five to six.
3. *Risks Associated with Fetal Alcohol Syndrome*  
Fetal alcohol syndrome is highlighted as a condition in which an infant or toddler may require early intervention services.

*Implementation: The Department of Developmental Services (Department) issued [guidance](#) to regional centers on July 27, 2022, detailing these changes and the process for conducting assessments and evaluations.*

### **Early Start Part C to B Transition**

TBL Sections 2, 3, 4, 8, 9 and 10: Government Code Section 95007 was amended, requiring the Department, in developing interagency procedures for early intervention services, to make efforts to schedule meetings with, and engage parents and legal guardians in, transition-related activities. Information for parents specific to transition requirements along with other parent training opportunities must be posted on the lead agency's website, regional centers' websites, and other appropriate internet websites.

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The Department must require each regional center to designate a main point of contact for coordinating and completing, with other agencies and persons, the transition of a child and family from Part C to Part B of the federal Individuals with Disabilities Education Act (IDEA), including establishing practices to educate and support families during transition.

Government Code Section 95008 was amended to state that the State Department of Education shall require each local educational agency to designate a main point of contact for coordinating and completing, with other agencies and persons, the transition of a child and family from Part C to Part B of the federal IDEA, including establishing practices to educate and support families during transition.

Government Code Section 95012 was amended, requiring the interagency agreement between the Department and the State Department of Education to include provisions related to the joint development and dissemination of educational information about transitioning from Part C of the federal IDEA.

Government Code Section 95024 was amended to state that family resource services funded pursuant to this section must include resources to families with information on the following areas:

- The difference between Part B and Part C services.
- Information about local Part B programs and other services in a family's community.
- Options for services for families after their child reaches three years of age.
- An overview of the process and timelines for a child's transition at three years of age.

Government Code Section 95026 was amended to specify that the data collected pursuant to this section must be used to improve service delivery and the quality of transition from Part C to Part B of the IDEA for children and families to the extent it is possible to do so.

Government Code Section 95028 was amended to state, on or before October 1, 2024, the regulations developed pursuant to this section must be updated to include a process for Part C programs to incorporate family feedback to help update and improve the transition process from Part C, training, and family satisfaction.

*Implementation: The Department will survey each regional center for information on the designated point of contact responsible for coordinating and completing, with other agencies and persons, the transition of a child and family from Part C to Part B.*

*Additionally, the Department will coordinate with the Department of Education, the Family Resource Centers Network of California, and Early Start stakeholders on activities related to transition, as specified above.*

### **Early Start Individualized Family Service Plan Reviews and Meetings**

TBL Section 6 and 7: Government Code Section 95018 was amended, requiring the service coordinator for each eligible infant or toddler and their family to conduct at least quarterly reviews of the individualized family service plan.

Government Code Section 95020(c)(1) was amended, extending the date to June 30, 2023, in which, at the request of the parent or legal guardian, an individualized family service plan meeting must be held by remote electronic communications.

Government Code Section 95020(c)(2) requires, with parental or legal guardian consent, a referral to be made to the local family resource center or network. This section was amended to state that a request for consent shall be offered to the parents or the legal guardian at the initial individualized family service plan meeting and at any subsequent individualized family service plan meeting, if consent was not previously obtained.

*Implementation: The Department will issue guidance to regional centers on operationalizing quarterly individualized family service plan reviews and obtaining consent from parents/legal guardians for referral to a local family resource center at each planning meeting. Additionally, modifications will be incorporated into SANDIS to allow regional center reporting according to these requirements with subsequent guidance to follow. The Department will also amend pertinent sections of regulations to conform with recent changes in Early Start's enabling statute.*

### **Individual Program Plan Meetings**

TBL Section 19 and 20: Welfare and Institutions Code<sup>1</sup> Section 4646 was amended, extending the date, until June 30, 2023, in which a meeting regarding the provision of services and supports by the regional center, including a meeting to develop or revise the individual program plan, must be held by remote electronic communications if requested by the consumer or, if appropriate, if requested by the consumer's parents, legal guardian, conservator, or authorized representative.

Section 4646 was also amended to replace instances of "native language" with "preferred language."

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<sup>1</sup> All citations are to the Welfare and Institutions Code unless otherwise noted.

Section 4646.4 was amended, requiring regional centers beginning October 1, 2022, to consider, if purchasing services and supports, information obtained from the consumer and, if appropriate, the parents, legal guardian, conservator, or authorized representative about the consumer's need for the services, barriers to service access, and other information.

*Implementation: Regional centers should review the language changes to ensure compliance and update policies, procedures, publications, and other materials, as needed, to reflect these changes.*

**Caseload Ratios for Consumers Age Five and Younger and Consumers with Low or No Purchase of Service Expenditures**

TBL Section 18: Section 4640.6 was amended to require an average service coordinator-to-consumer ratio of 1 to 40 for all consumers five years of age and younger. Additionally, enhanced service coordination, including a service coordinator-to-consumer ratio of 1 to 40, must be available to consumers identified as having low or no purchase of service (POS) expenditures, as identified in the annual Budget Act.

Enhanced service coordination, including the coordinator-to-consumer ratio must be available to specified consumers until one of the following criteria are met:

1. The family or consumer is no longer interested in receiving enhanced service coordination.
2. All of the consumer's identified service needs have been thoroughly explored and offered.
3. All information and training were provided to the family and consumer and the consumer's focused support goals were completed.
4. The family or consumer feels confident that they can continue to receive the assistance they need to be successful without receiving enhanced service coordination.

For the purposes of this section, "enhanced service coordination" may include, but is not limited to, all of the following:

1. Regular contact, via telephone or video, with consumers or their families.
2. Maintaining no less than quarterly contact with consumers or their families.
3. Having annual individual program plan or individualized family service plan meetings.

*Implementation: The Budget Act for Fiscal Year 2021-22 established funding for enhanced service coordination at a 1 to 40 service coordinator to consumer ratio for consumers in underserved communities with low or no purchase of service (POS). This language is codified in SB 188. The Department issued [guidance](#) to regional centers*

*regarding this change on April 26, 2022. Caseload ratios for consumers age five and younger and consumers with low or no POS expenditures were included in the Department's September 22, 2022, "Fall 2022 Survey on Assembly Bill 178 Funding for Service Coordinator Caseload Ratios" (letter enclosed) and will be included in future surveys. The Department and the Association of Regional Center Agencies are developing a process to measure the impact and outcome of Enhanced Service Coordination.*

### **Half-Day Billing for Day Services**

TBL Sections 26, 79 and 80: Section 4690.6 was repealed on July 1, 2022, deleting half-day billing requirements for day services. Section 4851 was amended to delete the definitions for "full day of service" and "half day of service." Section 4863 was amended to delete reference to half-day billing.

Implementation: *Day services providers are no longer required to bill the regional center in terms of half days.*

### **Tailored Day Services**

TBL Section 25: Section 4688.21(b) was amended, making changes to tailored day service (TDS) requirements. A TDS must include an individualized service design, as determined through the individual program plan, and developed through a person-centered planning process that reflects and maximizes individual preferences and goals, and approved by the regional center. This service design may include, but may not be limited to, the following:

1. Fewer days or hours than in the program's approved day program, look-alike day program, supported employment program, or work activity program design.
2. Flexibility in the duration, location, including by remote electronic communications, and intensity of services to meet the consumer's individualized needs.
3. Prioritizing the development or support of competitive, integrated employment, volunteer activities, or pursuit of postsecondary education; establishing and supporting paid internship program opportunities; maximizing consumer direction of the service; and increasing the consumer's ability to lead an integrated and inclusive life.

This section was amended to delete requirements for negotiating vendor rates for new and currently vendored TDS programs. Beginning July 1, 2022, for vendored programs wishing to offer a TDS option, the hourly rate for the TDS option will be calculated using a base rate, defined as twice the amount of the rate model or models for "Community-Based Day, Community Only, 1:2." The hourly rate shall equal 80 percent of the base rate. The rate established will remain in effect pending the Department's review, in coordination with stakeholders, of implementation of this section, as amended. The review, to be completed

by June 30, 2024, must include development of recommendations that may include, but not be limited to, modifying the scope of the service or establishing a rate model specific to the service. The Department must provide an update to the Legislature on the status of the review no later than January 10, 2024.

The hold harmless policy defined in Section 4519.10(d) applies for vendored programs offering a TDS as of June 30, 2022, with an hourly rate that exceeds the rate as calculated above.

TDS may not be delivered on the same day as any other regional center vendored day program, look-alike day program, supported employment program, or work activity program unless all of the following apply:

1. A consumer has a plan identified in their individual program plan for transitioning from a work activity program to competitive integrated employment, paid internship, or postsecondary education.
2. The transition plan is developed through a person-centered planning process that reflects and maximizes individual preferences and goals.
3. The duration of the delivery of TDS on the same day or days as a work activity program or supported employment services is no longer than six months.

The total monthly hours of TDS may not exceed the number of days in the month TDS are authorized, multiplied by four.

Implementation: Section 4688.21(b) was amended as follows:

- Utilization of TDS: TDS may be selected as either the sole program option or in addition to another program option. While TDS programming can be authorized with other day programming options, TDS cannot be provided on the same day as the other programming options except under specific conditions.
- Establishment of TDS rate: Effective July 1, 2022, the rate negotiation requirement was deleted from Section 4688.21 and the TDS rate is now established by using the [Burns and Associates DDS Vendor Rate Study – Rate Models](#), “Community-Based Day, Community Only, 1:2” rate, multiplied by 2 (“base rate”). Eighty percent (80%) of the established base rate, is the TDS rate (example: Community-Based Day, Community Only, 1:2 rate is  $\$26.85 \times 2 = \$53.70 \times .80 = \$42.96$ ). Regional centers must work with existing and new service providers offering TDS to recalculate the rate based on this formula.
- Total monthly hours of TDS: Monthly authorized hours shall not exceed the number of days per month TDS is authorized, multiplied by 4 (example: 15 days  $\times 4 = 60$  hours).

*Regional centers should inform their day service providers about these changes and work with them to calculate rates, as needed.*

### **Vouchered Community-Based Training Services**

TBL Section 25: Section 4688.21(c) was amended to include the paid internship program in the definition of activities in which vouchers community-based training services may be utilized.

Additionally, this section was amended to state that the rate for vouchers community-based training service is the most recent rate posted on the Department's website.

*Implementation: Regional centers should review the language changes and update policies, publications and other materials, as needed, to reflect these changes. Current reimbursement [rates by regional center](#) are located on the Department's website. Regional centers should inform their vouchers community-based training service providers about these changes and work with them to adjust rates, as needed.*

### **Alternative Nonresidential Services**

TBL Section 27: Section 4690.7 was added, authorizing a provider of nonresidential services, as defined in California Code of Regulations, Title 17, Section 54302(a)(49), to utilize Alternative Nonresidential Services, as authorized in the Department's Directive 01-083120 (August 31, 2020), if needed, to meet a consumer's service needs, until December 31, 2022. When providing services to consumers, providers must be creative, resourceful, and make modifications as needed to how existing services are delivered. Any Alternative Nonresidential Services used shall be responsive to each consumer's current needs, and be mindful of the importance of safety during the COVID-19 pandemic, including compliance with applicable state and local health orders and licensing requirements.

*Implementation: The Department will issue guidance to regional centers regarding next steps and options for Alternative Nonresidential Services before December 31, 2022.*

### **Remote Services and Supports Pilot Project**

TBL Section 14: Section 4511.6 was added, requiring the Department to develop a pilot project to test the feasibility of remote consumer services and supports that use technology solutions. It is the intent of the Legislature to test whether remote services and supports could provide an effective option for consumers to lead more independent lives, increase their access to bilingual services, and, when chosen and safe, reduce system reliance on one-to-one in-person direct support.



In choosing consumers to pilot remote services and supports, the Department must consider consumer preference, the type and amount of services or supports and staffing needed to meet the consumer's individual program plan, and the consumer's individualized choices and their unique health, safety, and other needs. Consumers chosen for the pilot project must represent diverse cultural and ethnic backgrounds, ages, and urban and rural regions of the state.

The Department must work with an external entity with relevant program evaluation experience to both design and evaluate the pilot project. Providers must be selected to participate in the pilot project by no later than March 1, 2023. The Department must report to the Legislature at quarterly briefings for legislative staff about the progress of the pilot project. Reporting must include summaries of the relevant data collected by service providers and regional centers. The Department must submit a final evaluation report of the pilot project to the Legislature, in accordance with Government Code Section 9795, no later than January 10, 2026.

Contracts to procure services to implement this section are exempt from the requirements contained in the Public Contract Code and the State Administrative Manual and from approval by the Department of General Services. This section remains in effect only until January 1, 2030, and as of that date is repealed.

*Implementation: Initial meetings with stakeholders familiar with remote services are in progress. A focus group, consisting of consumers, regional centers and service providers has been established. The focus group will advise the Department on program design and evaluation. The Department is gathering information regarding existing programs that provide remote services, which will be presented to the focus group. Focus group meetings will be conducted remotely, but not open to the public. The Department will issue guidelines to regional centers before March 1, 2023.*

### **Coordinated Family Support Services Pilot Program**

TBL Section 24: Section 4688.06 was added, requiring the Department to establish a Coordinated Family Support Services (CFSS) Pilot Program for adults who live with their families. The pilot program may focus on improving equitable access to services and supports and reducing ethnic and racial disparities in purchases of services. The services provided by the pilot program must be flexible and tailored to assist the consumer to remain in the home of their family for as long as that remains the preferred living option for the consumer and their family.

The Department may issue administrative program directives to ensure compliance with this section until the time regulations are adopted. It is the intent of the Legislature that the Department be allowed this temporary authority as necessary to implement program

changes only until completion of the regulatory process. Any regulation or administrative program directive issued must include key elements of the CFSS Program, including eligibility criteria, service design, and standards for vendors.

The Department must collaborate with stakeholders to obtain input about key elements prior to the issuance of regulations or administrative program directives. Stakeholders must include, but not be limited to, consumers and family members, including those from ethnically and racially diverse backgrounds, regional centers, the protection and advocacy agency described in Section 4900(i), the Office of Clients' Rights as described in Section 4433, the State Council on Developmental Disabilities, providers who deliver supported living services described in Section 4689, and providers with experience delivering services to adults living in the home of a parent or a family member, including independent living skills services described in Section 4688.05.

*Implementation: The Department has met with stakeholders, including consumers and families, regional centers, Disability Rights California, Office of Clients' Rights Advocacy, the State Council on Developmental Disabilities, and providers of supported living and independent living services, to obtain input and recommendations on a proposed CFSS service model. The Department is also seeking stakeholder input on a tool to assist regional centers and providers with assessing consumers for CFSS and developing a service plan. The Department will issue directives and/or guidance to regional centers, as needed.*

### **Work Activity Program Three-Year Pilot Program**

TBL Section 81: Section 4870.2 was added, requiring the Department to establish, by December 31, 2022, a three-year pilot program that focuses on competitive integrated employment, postsecondary education, and career readiness for individuals with developmental disabilities exiting work activity programs or secondary education in order to explore inclusive options, including, but not limited to, paid internships, competitive integrated employment, and college-to-career programs.

The pilot program must satisfy all of the following requirements:

1. Be developed in consultation with stakeholders, including, but not limited to, individuals with disabilities, including those who will be served by the program, family members, provider association representatives, consumer advocates, regional centers, the State Council on Developmental Disabilities, the State Department of Education, and the Department of Rehabilitation. The consultation described in this paragraph must commence no later than August 31, 2022.
2. Provide person-centered and time-limited services, aligning with each individual's needs and a person-centered approach, focused on preparing individuals for career pathways.

3. Consider evidence-based or promising practices for reducing or eliminating barriers to competitive integrated employment for people with intellectual and developmental disabilities in the development of innovated service options.
4. Require service providers participating in the pilot program to report on defined outcome measures, as determined by the Department.

Notwithstanding the rulemaking provisions of the Administrative Procedure Act (Government Code, Title 2, Division 3, Part 1, Chapter 3.5 (commencing with Section 11340)), the Department may implement, interpret, or make specific this section by means of written directives or similar instructions, without taking any regulatory action.

*Implementation: The Department will work with stakeholders, including the Department-established Employment Workgroup, the State Council on Developmental Disabilities, the Department of Education, and the Department of Rehabilitation, to obtain input on the development of the pilot program. The first stakeholder meeting is scheduled for October 17, 2022. The Department will issue service information to regional centers.*

#### **Unemployment Insurance Claim Data**

TBL Section 11: Unemployment Insurance Code Section 1095 was amended, allowing the Department to obtain consumer unemployment insurance claim data for the purposes of monitoring, program operation and evaluation, and evaluating employment outcomes, of the Employment First Policy, established pursuant to Section 4869.

*Implementation: The Department will enter into an agreement with the Employment Development Department to obtain consumer unemployment insurance claim data.*

#### **Family Cost Participation Program and Annual Family Program Fee Suspension**

TBL Section 76 and 77: Section 4783 was amended to state that beginning July 1, 2022, to June 30, 2023, inclusive, regional centers shall suspend existing and new assessments and reassessments of the cost participation under the Family Cost Participation Program. The suspensions shall no longer occur on or after July 1, 2023.

Section 4785 was amended to state that beginning July 1, 2022, to June 30, 2023, inclusive, regional centers shall suspend existing and new assessments, reassessments, and collections of the annual family program fee. The suspensions shall no longer occur on or after July 1, 2023.

Section 4785.1 was added, requiring on or before January 10, 2023, the Department to submit to the Legislature, as part of the annual budget process, a plan to revise the Family Cost Participation Program and the annual family program fee. The plan must be developed with input from stakeholders. The plan must consider changes that include,

but are not limited to, those that promote administrative efficiency and program compliance.

*Implementation: From July 1, 2022, to June 30, 2023, regional centers must suspend existing and new assessments and reassessments under the Family Cost Participation Program and annual family program fee, as well as collections. The Department will work with stakeholders to develop a plan to revise these programs.*

### **Self-Determination Program Financial Management Services Costs and State Council on Developmental Disabilities Report to the Legislature**

TBL Section 22: Section 4685.8 was amended, deleting the requirement that the costs of financial management services be paid by the participant out of the participant's individual budget. Section 4685.8(u) states that the regional center must pay the full costs of the participant's financial management services provider.

Additionally, this section was amended to change the date, to June 30, 2023, in which the State Council on Developmental Disabilities must issue a report to the Legislature on the status of the Self-Determination Program, and provide recommendations to enhance the effectiveness of the program.

*Implementation: The Department issued [guidance](#) to regional centers on July 27, 2022, detailing changes to financial management services costs under the Self-Determination Program.*

### **Appeals Process**

TBL Sections 29-75 and 84: Welfare and Institutions Code, Division 4.5, Chapter 7, was amended, making significant changes to the appeals process for resolving conflicts between the regional center or state-operated facility and recipients of, or applicants for, service. Changes to some sections were effective immediately with the passage of SB 188 on June 30, 2022, while others will become operative on a later date. There were technical changes made to some existing sections, many of which will be repealed and replaced on March 1, 2023. Section 84 of SB 188 authorizes the Department to implement, interpret, or make specific the changes made to the appeals process by SB 188, by means of written directives or similar instructions, until regulations are adopted.

SB 188 made major changes to the appeals process. Changes that are already effective are detailed further below. The following is a list of other major changes, which will be detailed in future correspondence issued by the Department:

- SB 188 established a three-option appeals process that includes informal meetings, mediations, and hearings. Any or all of these options may be chosen by a claimant at any step in their appeal process.

- Requests to use any option in the appeals process will come to the Department. Previously, these requests were submitted to each regional center.
- Timelines for each step are defined clearly, while adhering to Medi-Cal's overall required 90-day resolution timeframe unless otherwise determined by a claimant.
- Notices of proposed action (NOAs), position statements, notices about claimant rights, and other written statements such as documentation of mutual consent, are defined and standardized as to timing and substance.
- Materials and documentation that must be shared in advance of a mediation or a hearing are defined.
- Materials must be made available in the preferred language of the claimant, and their authorized representative if applicable.
- Improvements were made to the training of administrative law judges (also known as hearing officers).
- Hearings must be conducted according to principles of engaged neutrality to bring out the relevant facts from each party.
- Final hearing decisions can be delegated to the Department of General Services' Office of Administrative Hearings (OAH), unless the Director of the Department wishes to approve any of them.
- Changes were made to the individual program plan process and template to conform to these changes.
- Data collection and transparency were expanded.

Some of SB 188's changes to the appeals process already are effective:

- Effective June 30, 2022
  - Section 4708 was added, requiring the Department to create, with input from stakeholders, standard appeals process information packets. One information packet must be related to appeals under the California Early Intervention Services Act (Government Code, Title 14 (commencing with Section 95000)) and another information packet must be related to appeals under the Lanterman Developmental Disabilities Services Act (Division 4.5 (commencing with Section 4500)). The information packets required by this section, including translations and alternative formats, must be available from the Department on or before March 1, 2023.

*Implementation: The Department will build upon existing information packets and website information, and then will engage with stakeholders.*

- Section 4713.5 was added, requiring the regional center to implement a final hearing decision as soon as practical and not later than 30 days following the date of the final hearing decision. If a regional center cannot implement a final hearing decision within 30 days, the regional center must notify the claimant and their authorized representative in writing, with a copy to the Department, of the specific exceptional circumstances that make it impossible to implement the decision within that timeframe and provide the date when the decision will be implemented.

The claimant or authorized representative may contact the Department if they are dissatisfied with the regional center's or the state-operated facility's compliance with the decision. Upon notification, the Department must take appropriate actions to obtain compliance with the decision.

*Implementation: The Department will issue correspondence regarding this process in October 2022.*

- Section 4717 was added, requiring the hearing office, in collaboration with the Department, to establish and maintain an advisory committee composed of stakeholders including recipients and family members, the State Council on Developmental Disabilities, the protection and advocacy agency identified in Section 4900 et. seq and designated by the Governor to fulfill the requirements and assurances of the federal Developmental Disabilities Assistance and Bill of Rights Act of 2000, contained in United States Code, Title 42, Chapter 144 (commencing with Section 15001), representatives of regional centers, advocacy organizations, and the Association of Regional Center Agencies. The advisory committee must meet at least semiannually and assist the hearing office by providing nonbinding recommendations for improvements to the operation of hearings and mediations.

*Implementation: The Department and the OAH will issue correspondence regarding the application process for this committee in October 2022.*

- Effective October 1, 2022
  - Section 4705.5 was added, stating that unless the claimant is themselves an attorney licensed to practice law in California, or unless the claimant will have an attorney licensed to practice law in California in attendance, a regional center attorney or Department attorney shall not attend an informal meeting, mediation, or hearing. The claimant must notify the

regional center and the hearing office at least five (5) days prior to mediation, and 15 days prior to a fair hearing, if the claimant will have an attorney in attendance. Also, the hearing officer may notify the parties in advance of a hearing that the hearing officer is allowing the attendance of an attorney in the interest of justice.

*Implementation: The Department issued [correspondence](#) to regional centers on September 20, 2022, regarding attendance of attorneys in the appeals process.*

*Specific changes made by SB 188 relative to pre-existing law are shown [here](#).*

### **Quality Assurance Instrument Contracting Requirements**

TBL Section 17: Section 4571 was amended to state, notwithstanding any other law, the Department's contract with an independent agency or organization to implement the quality assurance instrument described in this section and any amendments pursuant to this section are exempt from all of the following:

1. The personal services contracting requirements of Government Code, Title 2, Division 5, Part 2, Chapter 5, Article 4 (commencing with Section 19130).
2. The Public Contract Code, the State Contracting Manual, and the State Administration Manual.
3. The approval of the Department of General Services.
4. The approval of the Department of Technology.

The exemptions will remain in effect until there is more than one available assessment that meets the criteria in Section 4571(b) from an organization that also meets the criteria in Section 4571(d).

### **Rate Model Implementation**

TBL Section 16: Section 4519.10(c) was amended, changing certain dates the Department must adjust rates and implement fully funded rate models. Beginning January 1, 2023, and continuing through Fiscal Year 2023-24, the Department must adjust rates to equal one-half of the difference between rates in effect March 31, 2022, and the fully funded rate model for each provider, and additional funding must be available for the quality incentive program described in Section 4519.10(e).

The majority of the rate increase for Fiscal Year 2022-23 must be used for the purpose of enhancing wages and benefits for staff who spend a minimum of 75 percent of their time providing direct services to consumers. Beginning January 1, 2023, a provider may not spend a smaller percentage of the rate increase on direct care staff wages and

benefit costs than the corresponding percentage included for direct care staff wages and benefit costs in the rate models for each specific service.

A provider granted a rate increase pursuant to this section must maintain documentation, subject to audit by the Department or regional center, that the portion of the rate increase identified in this subparagraph (Section 4519.10(c)(1)(B)) was used to increase wages, salaries, or benefits of eligible staff members spending a minimum of 75 percent of their time providing direct services to consumers at least at the same percentage as provided in the rate models. For the purpose of this subparagraph (Section 4519.10(c)(1)(B)), “direct services” are services, supports, care, supervision, or assistance provided by staff directly to a consumer to address the consumer’s needs, as identified in the individual program plan, and includes staff’s participation in training and other activities directly related to providing services to consumers, as well as program preparation functions as defined in California Code of Regulations, Title 17, Section 54302.

Beginning July 1, 2023, a vendor must be in compliance with the Home and Community-Based Services Final Rule, that was effective March 17, 2014, or implementing a corrective action plan, to be eligible for the quality incentive program described in Section 4519.10(e).

Beginning July 1, 2024, the Department must implement the fully funded rate models. The fully funded rate models must be implemented using two payment components, a base rate equaling 90 percent of the rate model, and a quality incentive payment, equaling up to 10 percent of the rate model, to be implemented through the quality incentive program described in Section 4519.10(e).

Effective July 1, 2024, it is the intent of the Legislature that rates be uniform within service categories and adjusted for geographic cost differentials, including differentials in wages, the cost of travel, and the cost of real estate.

*Implementation: Section 4519.10 was amended to accelerate implementation of the rate increases. To assist with implementation efforts, the Department will work with its contractor Health Management Associates to calculate the rate adjustments for applicable providers for the next rate increase effective January 1, 2023. The Department will provide ongoing updates on its website and send regional centers correspondence regarding implementation, as needed. Information on the [rate study implementation](#) is posted on the Department’s website.*

### **Home and Community-Based Services Settings Requirements**

**TBL Section 23:** Section 4685.10 was added, authorizing the Department to adopt regulations to implement and comply with home and community-based settings



requirements in Code of Federal Regulations, Title 42, Section 441.530(a)(1). Any regulations must be adopted in accordance with the requirements of Government Code, Title 2, Division 3, Part 1, Chapter 3.5 (commencing with Section 11340).

Additionally, the Department may issue administrative program directives to ensure compliance with Code of Federal Regulations, Title 42, Section 441.530(a)(1) until the time regulations are adopted. It is the intent of the Legislature that the Department be allowed this temporary authority as necessary to implement compliance with the federal requirements only until completion of the regulatory process.

*Implementation: The Department will meet with stakeholders, including regional center representatives, to review and determine necessary updates to regulations which will address areas found to not fully meet the federal requirements in the systemic assessment as included in the Statewide Transition Plan (STP).*

*The Department will evaluate supporting documents and plans submitted by service providers through the validation and remediation processes to best determine areas where additional clarification is needed to ensure compliance with the federal requirements until the time regulations are adopted. The Department will meet with stakeholders, including regional center representatives, to review administrative program directives in advance of issuing information. Anticipated directives may include:*

- Information regarding service providers who have not been assessed or submitted documentation for remediation.*
- Information on the federal requirements for person-centered service planning, and clarification of required documentation within an individual's service plan regarding any modifications to the federal requirements based on an individual's assessed need.*
- Additional clarification of the intent of specific federal requirements to ensure compliance (e.g., what access to food means).*
- Updates to ongoing monitoring procedures.*

**Developmental Services Workforce Stabilization (Training Stipends, Training and Internship Program, Tuition Reimbursement for Regional Center Employees)**

TBL Section 28: Chapter 6.5 (commencing with Section 4699) was added to Welfare and Institutions Code Division 4.5, establishing statute related to developmental services workforce stabilization programs.

Section 4699.5 requires the Department to seek input from stakeholders throughout the implementation of this chapter. Stakeholders may include, but are not limited to, any of the following:

1. Consumers and families across different geographic regions of the state and from diverse racial and ethnic backgrounds, and diverse consumer age groups and disabilities.
2. Regional center representatives, including executive-level staff, administrative staff, and service coordinators.
3. Service providers representing a diverse range of service types and models and including executive staff and direct support professionals.

The Department may utilize one of its existing stakeholder groups if it meets the criteria described in this section to conduct this consultation.

Section 4699.6 requires the Department to report to the Legislature at quarterly briefings for legislative staff about the progress on the programs described in this chapter. Reporting will include summaries of the relevant data collected by service providers and regional centers.

Additionally, the Department must submit a report to the Legislature, in accordance with Government Code Section 9795, no later than January 10, 2026, evaluating the success of the programs described in this chapter. As applicable, the report must include, but not be limited to, information about all of the following:

1. Summary information about each program, including statistics on participation and program completion, participant demographics, and participation by regional center and type of service provider.
2. Number of new hires at service providers and regional centers.
3. Employee retention and turnover rates at service providers and regional centers overall and among the program participant population, including available baseline rates prior to implementation of the programs and rates following completion of the programs.
4. Consumer and family satisfaction and other measures of consumer outcomes.

Section 4699.7 states, notwithstanding the rulemaking provisions of the Administrative Procedure Act (Government Code, Title 2, Division 3, Part 1, Chapter 3.5 (commencing with Section 11340)), the Department may implement, interpret, or make specific, the provisions of this chapter by means of written directives or similar instructions through June 30, 2025. Contracts to procure services to implement this chapter shall be exempt from the requirements contained in the Public Contract Code and the State Administrative Manual and from approval by the Department of General Services.

### Training Stipends

Section 4699.2 requires the Department to establish, and regional centers to administer in coordination with service providers, a program to provide training stipends to direct support professionals. A regional center shall provide up to two five-hundred-dollar (\$500) training stipends to a direct support professional who completes training and development courses as specified by the Department. Each training stipend must be paid no later than three months after the conclusion of a training requirement.

A portion of the program funding must be used to compensate service providers an amount, in the form of a fee, as necessary to cover the reasonable costs to administer the program in coordination with regional centers, as determined by the Department. Service providers and regional centers must track participation and report to the Department on a quarterly basis, beginning on January 31, 2023, on cumulative and reporting-period data about the number of participants, the administration of the fee pursuant to Section 4699.2(e), the selection of training and development courses, and turnover information among participants. Training and development courses must begin no later than November 1, 2022. A program participant may enroll in a training and development course on a later date.

*Implementation: The Department will work with stakeholders on the development and implementation of training stipends for direct support professionals. The Department will issue correspondence to regional centers and post information on its website detailing components and implementation of the program and the required reporting.*

### Training and Internship Program

Section 4699.3 requires the Department to establish, and regional centers to administer, an entry-level training and internship program for individuals interested in becoming direct support professionals. The training and internship program shall do all of the following:

1. Contract with outside agencies for recruitment outreach.
2. Offer three-month internships that provide entry-level training and practical work experience for participants.
3. Outline the wage and employment costs for paid internships up to 30 hours per week, to collectively cover participant wages and service provider costs.
4. Focus on populations that reflect the state's diverse population and that do not traditionally have a pathway toward jobs in the developmental services field.
5. Establish an entry point to the continuum of developmental services workforce development, including the training described in Section 4511.5.
6. Create opportunities for post-internship permanent employment with service providers and allow for a five-hundred-dollar (\$500) retention stipend after six

months of continuous employment and another five-hundred-dollar (\$500) stipend after one year of continuous employment.

Regional centers must track participation and report to the Department on a quarterly basis on cumulative and reporting-period data about the number of participants, the number of participants hired, and the number of six-month and one-year employment stipends provided. Internships must be available no later than June 1, 2023. A program participant may enroll in an internship on a later date.

*Implementation: The Department will work with stakeholders on the development and implementation of the training and internship program for direct support professionals. The Department will issue correspondence to regional centers and post information on its website detailing components and implementation of the program and the required reporting.*

#### Tuition Reimbursement for Regional Center Employees

Section 4699.4 requires the Department to establish, and regional centers to administer, a tuition reimbursement program for regional center employees who seek a degree or certification in a health or human services-related field. Each qualifying participant will be eligible to receive up to ten thousand dollars (\$10,000) annually for up to three years. In exchange for tuition reimbursement, participants will be required to work at the regional center for no less than one year for each year of tuition reimbursement following completion of their degree or certification. An employee may transfer to another regional center to complete this requirement. The funding regional center shall notify the Department within 30 days after a request from an employee to transfer to another regional center to complete this requirement. The receiving regional center is responsible for reporting the information required in Section 4699.4(g).

By September 1, 2022, the Department must publish eligibility requirements for regional center staff participation. These requirements must include information about which regional center staff are eligible, which academic programs or types of academic programs are eligible, minimum application requirements, concurrent regional center work requirements, and postgraduation regional center work requirements. In addition, the Department must describe the terms of the program, including repayment or partial repayment requirements for individuals who do not complete their degree or certification or do not complete the concurrent or postgraduation work requirements.

Tuition reimbursement will be available for Fiscal Years 2022-23 through 2024-25. Regional centers must report to the Department on an annual basis, beginning on April 1, 2023, and thereafter on January 1 of each year until January 1, 2026, on data about the program, including number and demographics of applicants and participants and their

regional center position, degree and field sought, and how long they were employed by the regional center after completing their degree or certification.

*Implementation: The Department will work with the Association of Regional Center Agencies and regional centers to design the tuition reimbursement program. The Department will issue correspondence to regional centers on the requirements, parameters, implementation and reporting for the program.*

### **Safety Net Plan Update**

TBL Section 13: Section 4474.16 was amended, requiring the Department to submit an updated safety net plan to the Legislature on or before January 10, 2023, and in conjunction with the Governor's proposed 2023-24 budget. The updated plan must be developed in consultation with stakeholders and must do all of the following:

1. Evaluate the progress made to create a safety net, including services or residences intended to facilitate transitions or diversions from institutions for mental disease, the Canyon Springs Community Facility, the secure treatment program at Porterville Developmental Center, carceral settings such as prisons or jails, or other restrictive settings. This evaluation must include data on the number of consumers who transitioned from those facilities since 2019, and to which setting type or living option.
2. Identify areas the stakeholder community suggests evaluating and recommendations from the stakeholder community, which may include, but is not limited to, best practices for supporting individuals at risk of placement in restrictive settings, expanding or refining existing service or models of care, and developing new models of care for individuals whom private sector vendors cannot or will not serve.
3. Provide data on the number of adolescents and adults with complex needs, statewide and by regional center, the number of special incidents involving restraints, as described in California Code of Regulations, Title 17 Section 54327(b)(1)(B), and the number of admissions to institutions for mental diseases funded by regional centers and to the Canyon Springs Community Facility between January 1, 2020, and December 31, 2021.
4. The Department's strategic planning process, including how the Department identifies service gaps, and how the Department plans to address future needs in the community.

Beginning July 1, 2023, and until December 31, 2026, the Department must:

1. Provide quarterly updates to the appropriate policy and fiscal committees of the Legislature on the steps foreseen, planned, and completed in the development of services under the updated Department's safety net plan.
2. Make quarterly updates to the plan available on its internet website.

For purposes of this section, “adolescents and adults with complex needs” has the same meaning as a “consumer with complex needs,” as defined in Section 4640.6(c)(4)(C).

*Implementation: The Department will work with stakeholders to obtain input to update the safety net plan, to include small focus group discussion and at the Developmental Services Task Force Safety Net Workgroup meeting on November 16, 2022.*

### **Seclusion, Restraint and Involuntary Emergency Medication Reporting**

TBL Section 21: Section 4659.2 was amended to require on a monthly basis, all regional center vendors that provide crisis or residential services or supported living services, long-term health care facilities, and acute psychiatric hospitals to report to the Department, the consumer’s regional center, the vendoring regional center, if different, and the agency designated pursuant to Section 4900(i), all of following information:

1. The number of incidents of seclusion and the duration of time spent per incident in seclusion.
2. The number of incidents of the use of behavioral restraints and the duration of time spent per incident of restraint.
3. The number of times an involuntary emergency medication is used to control behavior.

The monthly reports must include the name, street address, and telephone number of the facility.

*Implementation: The Department will issue correspondence for regional center vendors on reporting format and process.*

### **Institutions for Mental Diseases Quarterly Reporting**

TBL Section 12: Section 4418.25(h) was amended, requiring each institution for mental disease (IMD) that, in the preceding year, admitted a consumer, including consumers whose placements are not funded by a regional center, to report quarterly on February 1, May 1, August 1, and November 1, to the Department, the consumer’s regional center, and the contractor for regional center clients’ rights advocacy services under Section 4433, all of the following in a format prescribed by the Department:

1. The total number and age, race, and ethnicity of consumers placed in that facility.
2. The number of admissions.
3. The reasons for admissions by category.
4. The lengths of stay of consumers.
5. The funding source.

*Implementation: The Department will work with regional centers, IMDs, the Department of Health Care Services and Disability Rights of California to develop a process for reporting the required information. The Department will issue correspondence to regional centers and the affected vendors.*

### **AFDC-FC, ARC, Kin-GAP Data Reporting**

TBL Section 83: Section 11464 was amended, changing the frequency, from a semiannual to an annual basis, in which the State Department of Social Services and the Developmental must provide data, as specified in Section 11464(h)(2), to the Joint Legislative Budget Committee.

The State Department of Social Services and the Department must provide public transparency regarding implementation of this section through the annual posting of the data specified in Section 11464(h)(2) on their respective internet websites. Each department must also maintain a link to the other department's data on their respective internet websites.

### **Canyon Springs Community Facility Acute Crisis Admissions**

TBL Section 82: Section 7505 was amended, extending the date to June 30, 2023, in which a person may be committed by a court to Canyon Springs due to an acute crisis or when continued treatment is needed to achieve stabilization and successful community transition for individuals currently admitted to an acute psychiatric hospital or acute psychiatric facility pursuant to this section.

A person admitted to Canyon Springs pursuant to this section will be subject to enhanced monitoring that includes the following:

1. Department clinical staff must make monthly monitoring visits to observe the implementation of treatment plans.
2. The Department must conduct monthly calls with regional centers to update transition planning and identify available placement options.
3. The facility must complete an initial transition plan within 60 days from admission.
4. The facility must conduct a transition review meeting 45 days prior to transitioning an individual from the facility.

The Department's quarterly updates to legislative staff in accordance with this section and Section 4474.17 must include, for persons admitted to Canyon Springs beginning July 1, 2022, information on all alternative placement options examined for each person prior to admission.

*Implementation: Canyon Springs will continue to admit individuals committed by a court for acute crisis admission until June 30, 2023. The Desert STAR capacity is 10 beds. If*

*the regional center determines the community placement of a consumer is at risk of failing, and the consumer meets the acute crisis criteria as stated in Section 4418.7, the regional center may submit a request to the state operated acute crisis services at [StarReferral@dds.ca.gov](mailto:StarReferral@dds.ca.gov). The request must include the following information:*

- Cover letter with a description of the acute crisis situation, all alternatives that have been used and pursued to support the individual in the community, including specific details on what supplemental resources have been attempted, other regional center resources that have been explored and the outcomes, the date the statewide specialized resource services database was accessed and the outcome, reflection that the regional center executive director has approved the referral for crisis admission, and which STAR home is to be considered (South STAR, Northern STAR, Central STAR or Desert STAR).*
- Completed DS 2518*
- Current psychological, psychiatric and/or behavioral assessment*
- Current Client Development Evaluation Report*
- Most recent individual program plan*
- The date the individual became eligible for regional center services*
- Any additional pertinent information that would assist in the assessment process*

*The appropriate regional resource development project will complete an assessment prior to the consideration of an admission and the findings will be forwarded to the Director of the Department or the Director's designee. Prior to any admission, the Director of the Department or the Director's designee must certify that there are no community-based options that can meet the consumer's needs.*

*Enhanced monitoring:*

- The Department's Office of Statewide Clinical Services staff conducts monthly visits to Canyon Springs to monitor implementation of treatment plans.*
- Monthly meetings between the Department and regional center staff will continue to be held for all individuals admitted to Canyon Springs pursuant to this section to discuss transition planning and identify available placement options.*
- Monthly interdisciplinary team meetings for each individual admitted to Canyon Springs pursuant to this section will be used to complete an initial transition plan within 60 days of admission.*
- Transition review meetings will continue to be conducted 45 days prior to transitioning each individual admitted to Canyon Springs pursuant to this section.*



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**Fairview Developmental Center Property Use**

TBL Section 1: Government Code Section 14670.31 was added, authorizing use of the Fairview Developmental Center property for a mixed-use development, including mixed-income housing. The development would include and prioritize affordable housing, including at least 200 units of permanent supportive housing, and open space. Priority will be given to redevelopment concepts that include housing that is deed restricted to provide housing for individuals with developmental disabilities.

Consumers, family members or providers should contact their local regional center with any questions. Regional center questions may be directed to me at (916) 654-1897 or [brian.winfield@dds.ca.gov](mailto:brian.winfield@dds.ca.gov).

Sincerely,

*Original Signed by:*

BRIAN WINFIELD  
Chief Deputy Director

Enclosure

cc: Regional Center Board Members via Board Presidents  
Regional Center Administrators  
Regional Center Community Services Directors  
Regional Center Directors of Consumer Services  
Association of Regional Center Agencies