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D-2024-Legislation-001

TO: REGIONAL CENTER EXECUTIVE DIRECTORS AND
BOARD PRESIDENTS

SUBJECT: 2023 TRAILER BILL LANGUAGE SUMMARY

The purpose of this directive is to provide a summary of the 2023 Developmental Services Budget Trailer Bills, AB 121 (Chapter 44, Statutes of 2023) and SB 138 (Chapter 192, Statutes of 2023), which affect regional centers, state-operated services, and the developmental disabilities services system. The changes made by these bills became effective with their enactment, unless otherwise specified by the statute. While this letter provides a high-level summary, a complete and thorough review of the bills by regional centers is imperative for statutory compliance. **A number of requirements and due dates for regional centers are included in this directive**, to avoid the need for directives on individual topics. Below is a list of areas affected by, and/or new requirements resulting from these bills, and the sections of each bill where relevant statutory changes can be found:

- [Federal Education Grant Funding Distribution](#)
- [Remote Individualized Family Service Plan and Individual Program Plan Meetings](#)
- [Parental Participation in Applied Behavior Analysis \(ABA\) or Intensive Behavioral Intervention](#)
- [Special Incident Report Annual Updates](#)
- [Provisional Eligibility to Include Ages 0-2](#)
- [Consumer Information Privacy Clarification](#)
- [Rate Models to Reflect Increases in the Minimum Wage](#)
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- [Participant-Directed Services to Include Social Recreation and Camping Services](#)
- [Rate Study Update - Family Home Agencies](#)
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- [STAR Home Operations](#)
- [Complex Needs Homes](#)
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- [Respite Services Assessment Tool](#)
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- [Standardized Intake Process](#)
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Federal Education Grant Funding Distribution

AB 121 Sections 1-8: Chapter 8, Part 30 of the California Education Code was amended, making changes to special education programs for individuals with exceptional needs residing in state hospitals and the Department of Developmental Services' (Department) state-operated facilities. Changes include:

1. Distribution of funding for individuals with exceptional needs who are receiving mental health services pursuant to Welfare and Institutions Code Section 4000, et seq. now goes directly to the Department of State Hospitals rather than passing through the Department.
2. Technical amendments which more accurately reflect the current operation of special education programs for individuals with exceptional needs who are residing in state hospitals and the Department's state-operated facilities.

Implementation: There is no impact on regional centers.

Remote Individualized Family Service Plan (IFSP) and Individual Program Plan (IPP) Meetings

AB 121 Section 11 and 17: Government Code Section 95020 and Welfare and Institutions Code Section 4646 were amended to require that, until June 30, 2024, meetings related to the provision of services and supports by the regional center, including meetings to develop or revise the IFSP or IPP, must be held via remote electronic communications if requested by the individual, their parents, legal guardian, conservator, or authorized representative.

Implementation: Sections 11 and 17 were superseded by legislation in 2024, AB 162 (Chapter 47, Statutes of 2024), which permanently extended the option for remote IFSP and IPP meetings. See the Department's [November 14, 2024](#) letter regarding AB 162, D-2024-Legislation-002, for more details.

Parental Participation in Applied Behavior Analysis (ABA) or Intensive Behavioral Intervention

AB 121 Section 12 and 20: Government Code Section 95021 and Welfare and Institutions Code Section 4686.2 were amended to remove the requirement that regional centers only purchase these services when a parent or parents participate in the intervention plan. The bill prohibits a regional center from denying or delaying the provision of ABA or intensive behavioral intervention services for an infant, toddler, or

minor due to a lack of parent participation, as specified. The bill requires vendors to design intervention plans that include, among other things, the recommended parent participation to achieve the goals and objectives set forth in an IFSP or IPP.

Implementation: Regional centers are required to update Purchase of Service (POS) policies, internal service coordination policy guidance, and/or regional center training materials both internally or posted on their websites to comply with the statutory change and reflect access to ABA services, regardless of parent participation. Regional centers must update behavioral intervention services POS policies to align with updated statute and submit to the Department within 120 days of the date of this letter.

Special Incident Report Annual Updates

AB 121 Section 13: Welfare and Institutions Code Section 4474.17 was amended requiring the Department to provide in its quarterly briefings with legislative staff, an annual update on the status of the Department's efforts to improve oversight of special incidents and respond to special incident trends and include a summary of the most recent annual report regarding special incidents involving individuals with developmental disabilities served by regional centers.

Implementation: There is no immediate impact on regional centers.

Provisional Eligibility to Include Ages 0-2

AB 121 Section 14: In 2021, Welfare and Institutions Code Section 4512 was amended to expand provisional eligibility for children from ages 3 through 4 years of age, to birth through 4 years of age.

Implementation: On March 18, 2024, the Department issued [instructions](#) to regional centers that SANDIS had been updated to allow the coding of young children as provisionally eligible.

Consumer Information Privacy Clarification

AB 121 Section 15: Welfare and Institutions Code Section 4519.5 requires the Department and regional centers to compile and report POS data consistent with applicable privacy laws. The bill places additional requirements on the Department and regional centers regarding the reporting of that data, including, among other things, requiring the information to be posted after December 1, 2024 in machine-readable format. The bill further requires that data be de-identified in accordance with specified requirements.

Implementation: The Department is working with regional centers to publish data that complies with applicable federal and state privacy laws. Regional centers, starting with

2024 POS reports, may link to the Department's machine-readable and de-identified website reports instead of posting their own de-identified reports on their individual websites. Regional centers will continue to receive their individual annual POS reports from the Department with individual-level, non-de-identified, data. These individual-level reports may not be shared publicly due to the Health Insurance Portability and Accountability Act (HIPAA) and other personal privacy protection laws.

Rate Models to Reflect Increases in the Minimum Wage

AB 121 Section 16: Welfare and Institutions Code Section 4519.10 was amended to require that rate models be updated for applicable changes to the statewide minimum wage and IRS mileage, beginning July 1, 2024.

Implementation: The Department has posted updated rate [models](#) to reflect changes in the [statewide minimum wage](#), and sent a letter, [C-2024-Rate Reform-001](#), to regional centers.

Access to Generic Resources

AB 121 Section 18: Welfare and Institutions Code Section 4646.4(a)(2) was amended to specifically include Medi-Cal as a health insurance plan to be considered as a generic resource when determining whether a medical service, identified in the IFSP, will be purchased by the regional center. Medi-Cal already was considered a generic resource in the development of an IPP.

This section authorizes a regional center to purchase a medical service if the individual program planning team determines that the medical service is not available within 60 days through a health insurance plan (i.e., family's private health insurance policy, Medi-Cal, or a health care service plan), and the regional center is in compliance with Welfare and Institutions Code Section 4659(d)(1).

Implementation: Regional centers must review these statutory changes and update policies, procedures, publications, and other materials as needed to reflect these changes. Regional centers must update any POS policies to align with updated statute and submit to the Department within 120 days of the date of this correspondence.

Home and Community-Based Services (HCBS) Final Rule Directive Authority Cross-Reference Correction

AB 121 Section 19: In 2022, Welfare and Institutions Code Section 4685.10 provided directive authority to support the State's compliance with federal HCBS requirements. This section corrected a cross-reference to federal regulations.

Implementation: No impacts to regional centers.

Participant-Directed Services Include Social Recreation and Camping Services

AB 121 Section 21: Welfare and Institutions Code Section 4688.22 provides directive authority to the Department to implement the provision of social recreation services, camping services, and nonmedical therapies. Effective July 1, 2023, a regional center is prohibited from requiring a consumer or family member to use In-Home Supportive Services, swap respite hours or other services, or pay a copayment to receive those services. These services also may be made available through Participant-Directed Services.

Implementation: The Department sent correspondence to regional centers on [November 3, 2023](#), and issued a directive on [February 6, 2024](#). Additional updates are included in the 2024 Developmental Services Budget Trailer Bill, AB 162 (Chapter 47, Statutes of 2024).

Rate Study Update - Family Home Agencies (FHA)

AB 121 Section 22: Welfare and Institutions Code Section 4689.1 was amended to clarify that the current rate structure for FHA services is based on the rate for Community Care Facilities licensed for four beds or fewer.

Implementation: Effective July 1, 2023, the maximum rate of reimbursement for FHAs is the community care facility four-bed rate schedule. As such, FHA rates can be adjusted in conjunction with updates to the community care facility fee schedule. The Department sent correspondence to regional centers on [October 7, 2024](#) related to the applicable maximum reimbursement rates for FHAs.

Suspension of Family Cost Participation Program (FCPP) and Annual Family Program Fee (AFPF)

AB 121 Sections 23 and 24: Welfare and Institutions Code Sections 4783 and 4785 were amended to continue the suspension of the family fees assessment at regional centers, including FCPP and AFPF, until June 30, 2024.

Implementation: Subsequent to this suspension, AB 162 (Chapter 47, Statutes of 2024) completely repealed FCPP and AFPF effective July 2, 2024. Regional centers must review the language changes and update policies, procedures, publications, and other materials, as needed to reflect elimination of these programs.

STAR Home Operations

SB 138 Section 4: Welfare and Institutions Code Section 4418.7 was amended to require collaboration between the Department and the regional center to identify or

create alternative services and supports when the Department determines that an individual cannot be safely accommodated in a STAR home. Additionally, it prohibits the use of non-emergency restraints or seclusion in STAR homes.

Implementation: STAR homes have implemented these provisions.

Complex Needs Homes

SB 138 Section 5: Welfare and Institutions Code Section 4418.8 was added to authorize the Department to develop up to three five-bed homes for adolescents and adults with complex needs.

Implementation: The Department is planning the development of these homes at the site of the former Fairview Developmental Center in Costa Mesa, California.

Directive Authority

SB 138 Section 6: Welfare and Institutions Code Section 4435 was amended to add legislative intent and provides the Department with the authority to issue written directives to enhance consistency and uniformity in procedures related to intake, vendorization, and the collection of specified data, including race and ethnicity.

Implementation: The Department is using this authority, as discussed below on these topics.

Data Definitions

SB 138 Section 7: Welfare and Institutions Code Section 4435.1(b)(1) requires the Department to create standard definitions for data, by June 30, 2024, to help ensure fair access to services in all regional center programs. Starting January 1, 2025, regional centers will record the race, ethnicity, and preferred language of each person during initial intake, assessment, and the IPP meeting after their 18th birthday. Individuals have the right to update their demographic information at any time.

Implementation: The Department issued [standard definitions](#) to regional centers on July 1, 2024. SANDIS updates are underway and will be followed by training for regional centers and the broader community, in advance of January 1, 2025. The first training for regional centers is scheduled for November 14, 2024.

Respite Services Assessment Tool

SB 138 Section 7: Welfare and Institutions Code Section 4435.1(c) requires the Department to establish standardized procedures and a template to assess an

individual's needs for respite services by June 30, 2025, and requires statewide implementation by July 1, 2026.

Implementation: The Department is working with regional centers on development of a standardized assessment tool that comprehensively includes respite, personal assistance, and day care services. Drafts of the tool will be discussed with the broader community beginning in 2025. Regional centers are required to implement these standardized procedures and the template by January 1, 2026.

Individual Program Plan Standard Template

SB 138 Section 7: Welfare and Institutions Code Section 4435.1(d) requires the Department to create a standard template for IPPs by June 30, 2024. The template incorporates a person-centered approach to planning. Additionally, the Department established standard procedures, such as the frequency of meetings. These changes must be integrated in the State's new case management system.

Implementation: On June 28, 2024, the Department issued the [IPP template](#). Training is being provided to regional centers and the community. Regional centers are required to implement the new template for IPP meetings convened on or after January 1, 2025.

Vendorization Standard Procedures

SB 138 Section 7: Welfare and Institutions Code Section 4435.1(e) requires that by June 30, 2025, the Department to standardize vendorization procedures and regional centers to implement them by January 1, 2026. These procedures may involve standardized vendorization forms and requirements to streamline the approval process, including when services are provided through multiple regional centers.

Implementation: The Department is engaging with regional centers and the community to develop these standard procedures.

Standardized Intake Process

SB 138 Section 7: Welfare and Institution Code Section 4435.1(f) requires the Department to establish a standardized intake process that complies with the requirements and timelines specified in Welfare and Institutions Code Section 4642 by January 1, 2025. By June 30, 2025, regional centers are required to report quarterly to the Department, to the extent permitted by current data systems, the number of assessments conducted, and the time taken to determine eligibility.

Implementation: The Department is engaging with regional centers and the community to develop these standard procedures.

Generic and Common Regional Center Services

SB 138 Section 8: Welfare and Institutions Code Section 4435.2(a) requires by July 1, 2025, the Department, with input from various stakeholders, to provide the following information to the Legislature:

- A definition of generic services.
- Options to improve coordination of generic services for individuals and families.
- A description of regional center efforts to coordinate generic services for individuals and families.
- Identified barriers to accessing generic services.

Further, Welfare and Institutions Code Section 4435.2(c) and (d) require the Department, with input from stakeholders, including individuals and families, to evaluate the availability of common services and supports that individuals served by regional centers can access when determined necessary by their individual program planning team or their individualized family service plan team. By January 10, 2025, the Department must provide an update on this evaluation and a projected completion date. Additionally, the Department's quarterly updates to the Legislature must include information on the status of implementation of this section.

Implementation: The Department will work with stakeholders, including individuals and families, relevant state agencies, and other entities overseeing benefits or services to obtain input on what these services are, how to improve coordination, identified barriers to accessing these services, and inconsistencies in the availability of services or supports across the State.

Sincerely,

Original Signed by:

MICHI A.GATES, Ph.D.
Chief Deputy Director

cc: Regional Center Administrators
Regional Center Directors of Consumer Services
Regional Center Community Services Directors
Association of Regional Center Agencies
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