TRI-COUNTIES REGIONAL CENTER
EXECUTIVE DIRECTOR REPORT
November 4, 2011

I. SB 74 AND AB 104 TRAILER BILL IMPLEMENTATION UPDATE

- **Attachment #1:** DDS Guidance Letter on Implementation of March 2011 Trailer Bill Language (SB 74)
- **Attachment #2:** DDS Guidance Letter on Implementation of June 2011 Trailer Bill Language (AB 104)
- **Attachment #3:** Informational Letter to All TCRC Stakeholders on Trailer Bills SB 74 and AB 104
- **Attachment #4:** TCRC SB 74 and AB 104 Trailer Bill Implementation Report for November 2011

Tri-Counties Regional Center (TCRC) continues to work diligently and collaboratively with the Department of Developmental Services (DDS), Association of Regional Agencies (ARCA) and the TCRC area community stakeholders to implement the myriad of changes contained in the Trailer Bills, SB 74 and AB 104, that went into effect earlier this year. Trailer bills implement the requirements contained in the main budget bill. Our intent has been to implement the changes contained in the Trailer Bills as intended in the law in order to provide for a sustainable entitlement to services under the Lanterman Act and to do so in as a person centered manner as possible.

On June 16, 2011, the regional centers received written guidance from DDS on the implementation of Trailer Bill SB 74 approved in March 2011 affecting regional centers and on August 4, 2011 the regional centers received written guidance from DDS on the implementation of Trailer Bill AB 104 approved in June, 2011 affecting regional centers. TCRC has reconvened the internal Infrastructure Committee of the regional center used to implement the 2009 Trailer Bill changes to follow a similar process for the implementation of the new 2011 Trailer Bill changes. While TCRC is making good progress on the implementation of the new changes and requirements, it will take some time for full implementation to occur given the workload impact and follow-up clarification needed from DDS on a few of the provisions. Also, a letter to all TCRC stakeholders outlining a summary of the new changes and requirements per the Trailer Bills has been sent out **(Attachments #1-#4)**. TCRC will continue to monitor the situation very closely and will continue to provide the TCADD Board of Directors and the TCRC developmental services community with regular updates on the status of the implementation of the two Trailer Bill changes.

II. THE WAY FORWARD INITIATIVE

- **Attachment #5:** Southern California Conference of Regional Center Directors (SCCRCD): A Proposal for the Way Forward for Regional Centers
- **Attachment #6:** SCCRCD Way Forward Status Report

The Southern California Conference of Regional Center Directors (SCCRCD) have initiated a dialogue among member Regional Center Executive Directors, Board Presidents and Association of Regional Center Agencies (ARCA) Board delegates on the future direction of the community based developmental disabilities service system. Two Northern California regional centers, Golden Gate Regional Center and Alta Regional Center, have also joined the SCCRCD with this effort.

Numerous external forces including chronic and recurring budget reductions have imposed dozens of new changes through Trailer Bills since 2009 impacting every provision of service offered by regional centers. As the gap between expectations and financial support widens accompanied with continued "tinkering" with the system, it appears that the community based services system may be on the wrong path not only unable to effectively address budgetary challenges, but may also result in a system that is unable to carry out its mission of meeting the needs of persons with developmental disabilities and their families as outlined in the Lanterman Act. Regional centers must be willing to take risks, hear the critics, and be open to change and innovation while all stakeholders must recognize the limitations on public funds and the implications of these limitations on provision of services.

In an attempt to respond proactively and more strategically to these pressures, the SCCRCD is working on developing a strategy aimed at developing consensus on the way forward for the system. This effort seeks to engage in an honest self reflection within a formal process that involves all stakeholders of the regional center system including persons served by the regional centers, families, service providers, advocates, regional center staff and boards, Department of Developmental Services (DDS) and policy makers. The SCCRCD has appointed a subgroup consisting of Diane Anand of FDLRC, Pat Del Monico of HRC, George Stevens of NLACRC, Phil Bonnet of ACRC, Jim Shorter of GGRC and Omar Noorzad of TCRC to recommend a strategy for collecting input from stakeholders regarding changes that could be made to the developmental services system that would help its sustainability and effectiveness into the future.

The SCCRCD subgroup has met several times in the last several months and has identified functional components of the system that can be used as the primary framework for gathering input. These include components related to services, administration, and the system. These components are being used to develop a survey to gather input from stakeholders which will then be used by the SCCRCD to develop a set of recommendations to guide the system into the future. It is anticipated that the survey will be administered in the beginning of 2012 followed soon thereafter with a set of recommendations for change **(Attachments #5-#6)**.

III. Q&A

Attachment #1

STATE OF CALIFORNIA–HEALTH AND HUMAN SERVICES AGENCY EDMUND G. BROWN JR., Governor

DEPARTMENT OF DEVELOPMENTAL SERVICES
1600 NINTH STREET, Room 320, MS 3-9
SACRAMENTO, CA 95814
TDD 654-2054 (For the Hearing Impaired)
(916) 654-1958

June 16, 2011

TO: REGIONAL CENTER DIRECTORS AND BOARD PRESIDENTS

SUBJECT: MARCH 2011 TRAILER BILL LANGUAGE AFFECTING REGIONAL CENTERS

The purpose of this correspondence is to transmit a summary of the recently enacted Trailer Bill, SB 74 (Chapter 9, Statutes of 2011) that directly affects regional centers or the developmental services system. Trailer Bill Language (TBL) contains an urgency clause, and was therefore effective immediately upon passage, March 24, 2011. Regional centers should continue to educate their communities regarding these legislative changes. While this correspondence provides a high level summary of the TBL, a complete and thorough review of TBL (see www.leginfo.ca.gov) is imperative for regional centers' statutory compliance. While the effective date of the language in SB 74 is March 24, 2011, additional clarifying information regarding implementation is included in several areas below.

Regional Center Board Composition
TBL Section 2: Section 4622.5 was added to the Code, requiring by August 15 of each year, the governing board of each regional center to submit to the Department of Developmental Services (Department) detailed documentation, as determined by the Department, demonstrating that the composition of the board is in compliance with Section 4622.

Implementation: The Department will soon provide regional centers with a format for the reporting of all required information by August 15, 2011.

Regional Center Board Contracting Policy
TBL Section 3: Section 4625.5 was added to the Code, requiring the governing board of each regional center to adopt and maintain a written policy requiring the board to review and approve any regional center contract of two hundred fifty thousand dollars ($250,000) or more, before entering into the contract. No regional center contract of two hundred fifty thousand dollars ($250,000) or more is valid unless approved by the governing board of the regional center in compliance with its written policy. Contracts do not include vendor approval letters issued by regional centers pursuant to Title 17, California Code of Regulations (Title 17), section 54322.

Implementation: This statutory requirement for governing board review is applicable to contracts of $250,000, or more, entered into as of the effective date of the TBL, i.e., March 24, 2011. The law is applicable to all Operations and Purchase of Service contracts for, or over $250,000, whether multi-year or not.

Conflict of Interest

TBL Section 4: Section 4626 was amended requiring the Department to give a very high priority to ensuring that regional center board members and employees act in the course of their duties solely in the best interest of regional center consumers and their families without regard to the interests of any other organization with which they are associated or persons to whom they are related. Board members, employees, and others acting on the regional center's behalf, as defined in Title 17, must be free from conflicts of interest that could adversely influence their judgment, objectivity, or loyalty to the regional center, its consumers, or its mission. A person with a developmental disability who receives employment services through a regional center provider shall not be precluded from serving on the governing board of a regional center based solely upon receipt of these employment services.

The Department must ensure that no regional center employee or board member has a conflict of interest with an entity that receives regional center funding, including, but not limited to, a nonprofit housing organization and an organization qualified under Section 501(c)(3) of the Internal Revenue Code, that actively functions in a supporting relationship to the regional center.

The Department is required to develop and publish a standard conflict-of-interest reporting statement. The conflict-of-interest statement must be completed by each regional center governing board member and each regional center employee specified in Title 17 including, at a minimum, the executive director, and every administrator, program director, service coordinator, and employee who has decision-making or policymaking authority or authority to obligate the regional center's resources.

Every new regional center governing board member and regional center executive director must complete and file the conflict-of-interest statement described above with his or her respective governing board within 30 days of being selected, appointed, or elected. Every new regional center employee referenced above and every current regional center employee referenced above accepting a new position within the regional center must complete and file the conflict-of-interest statement with his or her respective regional center within 30 days of assuming the position. Every regional center board member and employee referenced above must complete and file the conflict-of-interest statement by August 1 of each year.

Every regional center board member and employee referenced above must complete and file a subsequent conflict-of-interest statement upon any change in status that creates a potential or present conflict of interest. A change in status includes, but is not limited to, a change in financial interests, legal commitment, regional center or board position or duties, or both, or outside position or duties, or both, whether compensated or not. The governing board must submit a copy of the completed conflict-of-interest statements of the governing board members and the regional center executive director to the Department within 10 days of receipt of the statements.

A person who knowingly provides false information on a conflict-of-interest statement will be subject to a civil penalty in an amount up to fifty thousand dollars ($50,000), in addition to any civil remedies available to the Department. An action for a civil penalty may be brought by the Department or any public prosecutor in the name of the people of the State of California.

The director of the regional center must review the conflict-of-interest statement of each regional center employee referenced above within 10 days of receipt of the statement. If a potential or present conflict of interest is identified for a regional center employee that cannot be eliminated, the regional center must, within 30 days of receipt of the statement, submit to the Department a copy of the conflict-of-interest statement and a plan that proposes mitigation measures, including timeframes and actions the regional center or the employee, or both, will take to mitigate the conflict of interest.

The Department and the regional center governing board must review the conflict-of-interest statement of the regional center executive director and each regional center board member to ensure that no conflicts of interest exist. If a present or potential conflict of interest is identified for a regional center director or a board member that cannot be eliminated, the regional center governing board must, within 30 days of receipt of the statement, submit to the Department and the State Council on Developmental Disabilities a copy of the conflict-of-interest statement and a plan that proposes mitigation measures, including timeframes and actions the regional center governing board or the individual, or both, will take to mitigate the conflict of interest.

<u>TBL Section 5</u>: Section 4626.5 was added to the Code requiring each regional center to submit a conflict-of-interest policy to the Department by July 1, 2011, and post the policy on its Internet Website by August 1, 2011. The policy must contain the elements in this paragraph and be consistent with applicable law; define conflicts of interest; identify positions within the regional center required to complete and file a conflict-of-interest statement; facilitate disclosure of information to identify conflicts of interest; require candidates for nomination, election, or appointment to a regional center board, and applicants for regional center director to disclose any potential or present conflicts of

interest prior to being appointed, elected, or confirmed for hire by the regional center or the governing board; and require the regional center and its governing board to regularly and consistently monitor and enforce compliance with its conflict-of-interest policy.

<u>Implementation</u>: Regional centers should assure they are taking action to comply with TBL and timeframes specified. Training for both employees and Board members is recommended. The Department is developing the required standard conflict-of-interest reporting statement, and it will soon be published.

<u>TBL Section 6</u>: Section 4627 was amended requiring the Department to monitor and ensure the regional centers' compliance with the laws governing conflict-of-interest. It also specifies that failure to disclose information required by these laws and related regulations may be considered grounds for removal from the board or for termination of employment. The Department is required to adopt emergency regulations by May 1, 2011, regarding conflict-of-interest reporting requirements.

<u>Implementation</u>: Emergency regulations are under development and will be promulgated shortly. The Department will monitor compliance through its fiscal audits and ongoing monitoring of regional centers.

<u>Accountability and Transparency</u>

<u>TBL Section 7</u>: Section 4629.5 was added to the Code, specifying that the Department's contract with a regional center must require the regional center to adopt, maintain, and post on its Internet Website a board-approved policy regarding transparency and access to public information. The transparency and public information policy must provide for timely public access to information, including, but not limited to, information regarding requests for proposals and contract awards, service provider rates, documentation related to establishment of negotiated rates, audits, and IRS Form 990. The transparency and public information policy must be in compliance with applicable law relating to the confidentiality of consumer service information and records, including, but not limited to, Section 4514.

To promote transparency, each regional center must include on its Internet Website, as expeditiously as possible, at least all of the following:

- Regional center annual independent audits.
- Biannual fiscal audits conducted by the Department.
- Regional center annual reports pursuant to Section 4639.5.
- Contract awards, including the organization or entity awarded the contract, and the amount and purpose of the award.
- Purchase of service policies.

- The names, types of service, and contact information of all vendors, except consumers or family members of consumers.
- Board meeting agendas and approved minutes of open meetings of the board and all committees of the board.
- Bylaws of the regional center governing board.
- The annual performance contract and year-end performance contract entered into with the Department.
- The biannual Home and Community-Based Services Waiver program review conducted by the Department and the State Department of Health Care Services.
- The board-approved transparency and public information policy.
- The board-approved conflict-of-interest policy.
- Reports required pursuant to Section 4639.5.

The Department is required to establish and maintain a transparency portal on its Internet Website that allows consumers, families, advocates, and others to access provider and regional center information. Posted information on the Department's Internet Website transparency portal must include, but need not be limited to, all of the following:

- A link to each regional center's Internet Website information referenced above.
- Biannual fiscal audits conducted by the Department.
- Vendor audits.
- Biannual Home and Community-Based Services Waiver program reviews conducted by the Department and the State Department of Health Care Services.
- Biannual targeted case management program and federal nursing home reform program reviews conducted by the Department.
- Early Start Program reviews conducted by the Department.
- Annual performance contract and year-end performance contract reports.

<u>Implementation</u>: If not already posted, regional centers must take immediate action to post the above information on the regional center's Internet home page. This requirement applies to the most current documents in each category and future applicable documents. Also, the Department has been asked if only vendors who have been providing services within the last two years should be included on the regional center's Internet Website. To reiterate, the law requires the names, types of service, and contact information of ***<u>all</u>*** *(emphasis added) vendors, except consumers or family members of consumers.*

<u>Fiscal Accountability</u>
<u>TBL Section 8</u>: Section 4629.7 was added to the Code requiring that all regional center contracts or agreements with service providers in which rates are determined through

negotiations between the regional center and the service provider expressly require that not more than 15 percent of regional center funds be spent on administrative costs. Direct service expenditures are those costs immediately associated with the services to consumers being offered by the provider. Administrative costs include, but are not limited to, any of the following:

- Salaries, wages, and employee benefits for managerial personnel whose primary purpose is the administrative management of the entity, including, but not limited to, directors and chief executive officers.
- Salaries, wages, and benefits of employees who perform administrative functions, including, but not limited to, payroll management, personnel functions, accounting, budgeting, and facility management.
- Facility and occupancy costs, directly associated with administrative functions.
- Maintenance and repair.
- Data processing and computer support services.
- Contract and procurement activities, except those provided by a direct service employee.
- Training directly associated with administrative functions.
- Travel directly associated with administrative functions.
- Licenses directly associated with administrative functions.
- Taxes.
- Interest.
- Property insurance.
- Personal liability insurance directly associated with administrative functions.
- Depreciation.
- General expenses, including, but not limited to, communication costs and supplies directly associated with administrative functions.

<u>Implementation</u>: *All contracts or agreements with vendors with a negotiated rate must be amended to expressly require that not more than 15 percent of regional center funds be spent on administrative costs. This law is applicable to all negotiated rates and providers of such services, not just prospectively. Should it be determined that the negotiated rate is comprised of more than 15 percent administrative costs, adjustments must be made to comport with law.*

With regard to the question of classifying profit, profit is revenue above cost and the statute only applies to cost. Typically, profit translates into a cost (i.e., wage/salary increase, bonus, etc.).

Section 4629.7 requires that all contracts between the Department and the regional centers require that not more than 15 percent of all funds appropriated through the regional center's operations budget be spent on administrative costs. "Direct services" includes, but is not limited to, service coordination, assessment and diagnosis, monitoring of consumer services, quality assurance, and clinical services. Administrative costs include, but are not limited to, any of the following:

- Salaries, wages, and employee benefits for managerial personnel whose primary purpose is the administrative management of the regional center, including, but not limited to, directors and chief executive officers.
- Salaries, wages, and benefits of employees who perform administrative functions, including, but not limited to, payroll management, personnel functions, accounting, budgeting, auditing, and facility management.
- Facility and occupancy costs, directly associated with administrative functions.
- Maintenance and repair.
- Data processing and computer support services.
- Contract and procurement activities, except those performed by direct service employees.
- Training directly associated with administrative functions.
- Travel directly associated with administrative functions.
- Licenses directly associated with administrative functions.
- Taxes.
- Interest.
- Property insurance.
- Personal liability insurance directly associated with administrative functions.
- Depreciation.
- General expenses, including, but not limited to, communication costs and supplies directly associated with administrative functions.

Implementation: *The requirement that regional centers expend no more than 15 percent of their operations allocation on administrative costs became effective March 24, 2011. The Department will monitor compliance through its fiscal audits of regional centers. The addition of the required language in the Department's contracts with regional centers is pending upcoming contract negotiations with the ARCA Contract Negotiations Committee.*

TBL Section 9: Section 4639 was amended to specify that, beginning in Fiscal Year (FY) 2011-12, the independent fiscal audit conducted pursuant to this section of law can not be completed by the same accounting firm more than five times in every 10 years.

Implementation: *For the FY 2011-12 audit, the regional center may not use an independent accounting firm that has been used five or more times in the previous ten years.*

TBL Section 13: Section 4652.5 was added to the Code, requiring any entity receiving payments from one or more regional centers to contract with an independent accounting firm for an audit or review of its financial statements subject to all of the following:

- When the amount received from the regional center(s) during the entity's fiscal year is more than or equal to two hundred fifty thousand dollars ($250,000) but less than five hundred thousand dollars ($500,000), the entity must obtain an independent audit or independent review report of its financial statements for the period. Consistent with Subchapter 21 (commencing with Section 58800) of Title 17, this also applies to work activity program providers receiving less than two hundred fifty thousand dollars ($250,000).
- When the amount received from the regional center(s) during the entity's fiscal year is equal to or more than five hundred thousand dollars ($500,000), the entity must obtain an independent audit of its financial statements for the period. This does not apply to payments made using usual and customary rates, as defined by Title 17, for services provided by regional centers, nor to state and local governmental agencies, the University of California, or the California State University.

An entity subject to the above must provide copies of the independent audit or independent review report and accompanying management letters, to the vendoring regional center within 30 days after completion of the audit or review. Regional centers receiving the audit or review reports must review and require resolution by the entity for issues identified in the report that have an impact on regional center services. Regional centers must also take appropriate action, up to termination of vendorization, for lack of adequate resolution of issues. Regional centers must notify the Department of all qualified opinion reports or reports noting significant issues that directly or indirectly impact regional center services within 30 days after receipt. The notification must include a plan for resolution of issues.

An independent review of financial statements must be performed by an independent accounting firm and must cover, at a minimum:

- An inquiry as to the entity's accounting principles and practices and methods used in applying them.
- An inquiry as to the entity's procedures for recording, classifying, and summarizing transactions and accumulating information.
- Analytical procedures designed to identify relationships or items that appear to be unusual.
- An inquiry about budgetary actions taken at meetings of the board of directors or other comparable meetings.
- An inquiry about whether the financial statements have been properly prepared in conformity with generally accepted accounting principles and whether any

events subsequent to the date of the financial statements would have a material effect on the statements under review; and,
- Working papers prepared in connection with a review of financial statements describing the items covered as well as any unusual items, including their disposition.

An independent review report must cover, at a minimum:
- Certification that the review was performed in accordance with standards established by the American Institute of Certified Public Accountants.
- Certification that the statements are the representations of management.
- Certification that the review consisted of inquiries and analytical procedures that are lesser in scope than those of an audit; and,
- Certification that the accountant is not aware of any material modifications that need to be made to the statements for them to be in conformity with generally accepted accounting principles.

This new section also prohibits the Department from considering a request for adjustments to rates submitted in accordance with Title 17 by an entity receiving payments from one or more regional centers solely to fund either anticipated or unanticipated changes required to comply with the above requirements.

<u>Implementation</u>: The Department will be sending a letter to vendored entities/providers, based on a Uniform Fiscal System (UFS) data run, that are subject to this law. This letter will be posted on the Department's homepage and regional centers are encouraged to either post the letter on their Internet Websites, or link to it. Regional centers may have other communication avenues with service providers through which they will additionally want to disseminate this information.

Vendor (and regional center) compliance with these requirements will be monitored through audits. Revisions are being made to the Department's vendor audit protocols for the monitoring of compliance with this statute. Corresponding revisions to the DDS-ARCA Regional Center Vendor Audit Protocol, will be discussed for incorporation and regional center use in monitoring providers of residential services receiving funding from regional centers at the qualifying thresholds, or monitoring other vendors with the Department's approval pursuant to audit thresholds in regional centers' contract with the Department.

Lastly, to assist regional centers, the Department will send to regional centers an annual UFS data run identifying vendors/entities, subject to these statutory provisions. This run will be based on the prior State fiscal year expenditures in UFS although the statutory *requirements and dollar thresholds for a fiscal review or audit, are based on the "entity's fiscal year". Given the Department does not have information on each impacted vendor's established fiscal year, the run to be sent to regional centers is simply to be a tool for indentifying an impacted vendor when conducting audits.*

Regional Center Staffing

TBL Section 10: Section 4640.6 was amended extending the date that specific consumer to service coordinator caseload ratios do not apply. The caseload ratio of 1:66 is lifted until June 30, 2012 for consumers who have not moved from the developmental centers to the community since April 14, 1993, who are three years of age and older, and who are not enrolled in the Home and Community-Based Services Waiver program for persons with developmental disabilities.

This section was also amended to extend until June 30, 2012, suspension of the requirement that regional centers must have, or contract for, all of the following areas:

- Criminal justice expertise to assist the regional center in providing services and support to consumers involved in the criminal justice system as a victim, defendant, inmate, or parolee.
- Special education expertise to assist the regional center in providing advocacy and support to families seeking appropriate educational services from a school district.
- Family support expertise to assist the regional center in maximizing the effectiveness of support and services provided to families.
- Housing expertise to assist the regional center in accessing affordable housing for consumers in independent or supportive living arrangements.
- Community integration expertise to assist consumers and families in accessing integrated services and supports and improved opportunities to participate in community life.
- Quality assurance expertise, to assist the regional center to provide the necessary coordination and cooperation with the area board in conducting quality-of-life assessments and coordinating the regional center quality assurance efforts.

Medicaid Integrity

TBL Section 11: Section 4648.12 was added to the Code, immediately following Section 4648.1, stating that under federal and state law, certain individuals and entities are ineligible to provide Medicaid services. An individual, partnership, group association, corporation, institution, or entity, and the officers, directors, owners, managing employees, or agents thereof, that has been convicted of any felony or misdemeanor involving fraud or abuse in any government program, or related to neglect or abuse of an elder or dependent adult or child, or in connection with the interference with, or obstruction of, any investigation into health care related fraud or abuse, or that has been found liable for fraud or abuse in any civil proceeding, or that has entered into a settlement in lieu of conviction for fraud or abuse in any government program, within the previous 10 years, is ineligible to be a regional center vendor. The regional center can not deny vendorization to an otherwise qualified applicant whose felony or misdemeanor charges did not result in a conviction solely on the basis of the prior charges.

This new section requires that to ensure compliance with federal disclosure requirements and to preserve federal funding of consumer services, the Department must:

- Adopt emergency regulations to amend provider and vendor eligibility and disclosure criteria to meet federal participation requirements. The emergency regulations must address, at a minimum, disclosure requirements of current and prospective vendors, including information about entity ownership and control, contracting interests, and criminal convictions or civil proceedings involving fraud or abuse in any government program, or abuse or neglect of an elder, dependent adult, or child.
- Adopt emergency regulations to meet federal requirements applicable to vouchered services.
- Adopt nonemergency regulations to implement the terms of the above two sets of regulations within 18 months of the adoption of these emergency regulations.

Implementation: Emergency regulations are under development and will be promulgated shortly. Pursuant to the statutory language effective March 24, 2011, regional centers should not vendor any new applicants who are listed on either of the Internet Websites below:

Link to the State's Suspended and Ineligible Provider List - http://files.medi-cal.ca.gov/pubsdoco/manuals_menu.asp

Link to the Federal Office of Inspector General "exclusions database" - http://exclusions.oig.hhs.gov/

Statewide Collaboration for Administrative Actions

TBL Section 12: Section 4648.14 was added to the Code, immediately preceding Section 4648.2, requiring the State Department of Social Services and the State Department of Public Health to notify the Department of any administrative action initiated against a licensee serving consumers with developmental disabilities. "Administrative action" includes, but is not limited to, all of the following:

- The issuance of a citation requiring corrective action for a health and safety violation.
- The temporary or other suspension or revocation of a license.
- The issuance of a temporary restraining order; and,
- The appointment of a temporary receiver pursuant to Section 1327 of the Health and Safety Code.

Third-Party Liability
TBL Section 14: Article 2.6 (commencing with Section 4659.10) was added to Chapter 5 of Division 4.5 of the Code.

The provisions in this Article granted regional centers and the Department authority, such as Department of Health Care Services' has under the Medi-Cal program, to pursue third party recovery of the reasonable value of the service provided by the regional center. Third party liability (and subsequently, recovery) includes not only health insurance and health care services plans but also third parties and carriers who may be liable for an injury or wrongful death of a consumer.

Implementation: Effective March 24, 2011, regional centers and the Department have the authority to pursue third party recovery as specified in statute. Additional information regarding this change in law and implementation will be sent out shortly to regional centers under separate cover.

Service Provider Relief
TBL Section 15: Section 4791 was amended extending the sunset date until June 30, 2012, the provision that regional centers may temporarily modify personnel requirements, functions, or qualifications, or staff training requirements for providers, except for licensed or certified residential providers, whose payments are reduced by 4.25 percent pursuant to the amendments to Section 10 of Chapter 13 of the Third Extraordinary Session of the Statutes of 2009, as amended by Section 164 of Chapter 717 of the Statutes of 2010.

A temporary modification, effective during any agreed upon period of time between July 1, 2010, and June 30, 2012, may only be approved when the regional center determines that the change will not do any of the following:

- Adversely affect the health and safety of a consumer receiving services or supports from the provider.
- Result in a consumer receiving services in a more restrictive environment.
- Negatively impact the availability of federal financial participation.

- Violate any state licensing or labor laws or other provisions of Title 17 of the California Code of Regulations not eligible for modification pursuant to this section.

A temporary modification must be described in a written services contract between the regional center purchasing the services and the provider, and a copy of the written services contract and any related documentation shall be retained by the provider and the regional center purchasing the services from the provider.

TBL also continued the suspension until June 30, 2012, the requirements described in Sections 56732 and 56800 of Title 17 requiring community-based day programs and in-home respite agencies to conduct annual reviews and to submit written reports to vendoring regional centers, user regional centers, and the Department. Also, from July 1, 2010, to June 30, 2012, a residential service provider, vendored by a regional center and whose payment is reduced by 4.25 percent pursuant to the amendments to Section 10 of Chapter 13 of the Third Extraordinary Session of the Statutes of 2009, as amended by Section 164 of Chapter 717 of the Statutes of 2010, is not required to complete quarterly and semiannual progress reports required in subdivisions (b) and (c) of Section 56026 of Title 17. During program review, the provider must inform the regional center case manager of the consumer's progress and any barrier to the implementation of the individual program plan for each consumer residing in the residence.

4.25 Percent Payment Reduction
TBL Section 16: Section 10 of Chapter 13 of the Third Extraordinary Session of the Statutes of 2009, as amended by Section 164 of Chapter 717 of the Statutes of 2010, was amended providing that to implement changes in the level of funding for regional center purchase of services, regional centers must reduce payments for services and supports provided pursuant to Title 14 (commencing with Section 95000) of the Government Code and Division 4.1 (commencing with Section 4400) and Division 4.5 (commencing with Section 4500) of the Code. From February 1, 2009, to June 30, 2010, regional centers were required to reduce all payments for these services and supports paid from purchase of services funds for services delivered on or after February 1, 2009, by 3 percent, and from July 1, 2010, to June 30, 2012, by 4.25 percent, unless the regional center demonstrates that a nonreduced payment is necessary to protect the health and safety of the individual for whom the services and supports are proposed to be purchased, and the Department has granted prior written approval.

Regional centers can not reduce payments for:
- Supported employment services with rates set by Section 4860.

- Services with "usual and customary" rates established pursuant to Section 57210 of Title 17 of the California Code of Regulations; and,
- Payments to offset reductions in Supplemental Security Income/State Supplementary Payment (SSI/SSP) benefits for consumers receiving supported and independent living services.

Best Practices

TBL Section 1: Section 4620.3 was added to the Code, requiring the Department, in collaboration with stakeholders, to develop best practices for the administrative management of regional centers and for regional centers to use when purchasing services for consumers and families.

The Purchase Of Service best practices may vary by service category and may do all of the following: establish criteria determining the type, scope, amount, duration, location, and intensity of services and supports purchased by regional centers for consumers and their families; modify payment rates; and reflect family and consumer responsibilities, pursuant to Sections 4646.4, 4659, 4677, 4782, 4783, and 4784, and Government Code Section 95004.

The Department must ensure that implementation of best practices that impact individual services and supports are made through the individual program planning or individualized family service planning processes, and that consumers and families are notified of any exceptions or exemptions to the best practices and their appeal rights established in Section 4701.

This section also required the Department to submit the proposed best practices to the fiscal and applicable policy committees of the Legislature by no later than May 15, 2011.

Implementation: The Department completed the development of the proposals to achieve the required general fund savings following a lengthy stakeholder input process. The TBL for implementation of these General Fund savings proposals were submitted to the Legislature. Enactment of these proposals will occur through adoption of the State Budget for FY 2011-12. A list of the proposals submitted to the Legislature is enclosed and the Department will send additional correspondence once the State Budget has been enacted.

If you have any questions regarding this correspondence, please contact Brian Winfield, Manager, Regional Center Operations Section, at (916) 654-1569.

Sincerely,

Original Signed By

RITA WALKER
Deputy Director
Community Operations Division

Enclosure

cc: Robert Baldo, ARCA

FOR LEGISLATIVE REVIEW

PROPOSALS TO ACHIEVE $174 MILLION GENERAL FUND SAVINGS PURSUANT TO WELFARE & INSTITUTIONS CODE SECTION 4620.3

DDS

DEPARTMENT OF DEVELOPMENTAL SERVICES

MAY 16, 2011

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PROPOSALS TO ACHIEVE $174 MILLION GENERAL FUND SAVINGS
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INTRODUCTION

The Department of Developmental Services (the Department) is currently responsible under the Lanterman Developmental Disabilities Services Act (Lanterman Act) for ensuring that nearly 245,000 persons with developmental disabilities receive the services and support they require to lead more independent and productive lives and to make choices and decisions about their lives.

California provides services and supports to individuals with developmental disabilities in two ways: the vast majority of people live in their families' homes or other community settings and receive state-funded services that are coordinated by one of 21 non-profit corporations known as regional centers. A small number of individuals live in four state-operated developmental centers and one state-operated community facility. The number of consumers with developmental disabilities in the community served by regional centers is expected to grow in Fiscal Year (FY) 2011-12 to nearly 250,000. The number of consumers living in state-operated residential facilities is expected to decrease by the end of FY 2011-12 to 1,691.

As a result of the on-going fiscal crisis in California over the last few years, the Department's budget, along with the budgets for many other state departments, has been reduced. To address prior fiscal pressures, service rates established by statute or by the Department have been frozen for many years and rates negotiated by the regional centers were limited in 2008 with the establishment of median rate caps for new providers. During the development of the FY 2009-10 and FY 2010-11 Governor's Budgets, the Department with input from a workgroup comprised of regional centers, service provider representatives, advocacy groups, consumers and family members, and legislative staff developed proposals to reduce or restrict General Fund (GF) growth in the Department's budget. In FY 2009-10, the Department developed proposals that resulted in approximately $334 million in GF savings and an additional $200 million in FY 2010-11. Savings proposals impacted both the developmental centers and regional centers, and included a variety of strategies such as restructuring, reducing or suspending various services; restricting eligibility for certain services; and maximizing other available funding sources, primarily federal funds. Most proposals achieved some or all of the savings, with changes to respite exceeding the savings anticipated. In addition to these proposals, payments for regional center operations and to providers of consumer services were reduced by 3 percent in FY 2009-10 and an additional 1.25 percent in FY 2010-11.

Due to continuing and significant pressure on the GF, the Department's budget for FY 2011-12 was decreased by $576.9 million GF, in addition to other reductions achieved through statewide budget items (e.g. state workforce reductions). Most of the changes necessary to achieve the savings have been identified and adopted by the Legislature. The reductions made to the Department's budget, totaling $402.9 million GF, will be achieved through continuation of the 4.25 percent payment reduction for regional center operations and purchase of services, additional federal and other alternative funding, administrative cost limits for regional centers and service providers, enhanced auditing, third-party collections and accountability measures, reduced funding for developmental centers, reduced funding for the Prevention Program serving infants and toddlers at risk of a developmental delay or disability, and additional regional center operations reductions.

In addition to reductions in community services, the developmental center budget has continued to decline through closure of state-operated facilities, living unit consolidations, delays in infrastructure repairs, and through cost saving personnel initiatives. In the FY 2011-12 budget, the developmental centers budget was decreased through additional residence consolidations; staffing reductions; delay in infrastructure repairs; additional federal funding; an unallocated reduction; and statewide budget items such as hiring freezes, furloughs, and wage reductions. The Department's headquarters budget has also decreased significantly over the last several years and for the FY 2011-12 budget is impacted by the statewide budget items referenced previously.

This left $174 million in GF reductions to be achieved through proposals developed by the Department and submitted to the Legislature for consideration. These proposals must be adopted by the Legislature before they can be implemented.

Consistent with the Department's on-going efforts to better align its budget with actual expenditures, a review of the most current expenditure information has identified a savings of $55.6 million GF available in FY 2011-12 that further reduces the amount necessary to be achieved through legislative proposals. This review of expenditure information also identified $28.5 million of one-time savings in the current year that will bridge the costs associated with implementation delays of the various proposals being submitted to the Legislature for the budget year.

To achieve the $174 million savings, the Department considered reductions in headquarters and regional center operations. The Department identified reductions of $39.3 million associated with contracts administered by the Department, proposals for increased federal financial participation, and additional reductions in regional center operations funding. After accounting for these proposed reductions, $79.1 million remained to be achieved through other proposals. All of the proposals are presented later in this document.

Throughout the process, there were many ideas and concepts that were discussed that have significant benefits to our system, but either could not be achieved within the short timeframe or would not generate immediate savings in the budget year. For example, the workgroups discussed: the need to reform the rate-setting systems; the potential benefit to restructuring the service codes used for billing; the need for more direct service providers doing background checks, coupled with increased training and vendorization changes; the value of having a designated benefits coordinator at each regional center; the need for federal, state and local governments to improve coordination of programs and funding; and the benefits and efficiencies of using technological advancements. The Department is committed to pursuing these ideas in the future, as the State's fiscal situation stabilizes and focus can be shifted to long-term improvements in the delivery of services.

PROCESS FOR DEVELOPING PROPOSALS

As the Department bridges this fiscal crisis, we remain committed to maintaining the Lanterman Act entitlement to community-based services and the preservation of the individualized planning process mandated in the Lanterman and Early Intervention Services Acts. For the development of the savings proposals, also referred to in statute as best practices, the Department has undertaken a significant effort to ensure full input was received from consumers, family members, advocates, service providers, regional centers, and the community.

Initial input was received through a statewide survey that was made available through the Department's website, as well as e-mails and letters from over 9,000 interested individuals and organizations. Eight workgroups were subsequently established to provide advice to the Department on savings proposals in the topic areas of behavioral services; day/supported employment/work activity program services; Early Start Program services; health care and therapeutic services; independent and supported living services; residential services; respite services; and transportation services. Representation on each of the eight workgroups included consumers, family members, service providers, advocacy organizations and regional center representatives. The representatives were selected by six statewide organizations with broad interest in regional center services[1], the Association of Regional Center Agencies[2], statewide organizations who

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[1] Statewide organizations with broad interest appointed a consumer/family member, a service provider and an organization representative. These organizations included Disability Rights California, State Council on Developmental Disabilities, People First of California, The ARC of California, State Employees International Union, and California Disability Community Action Network.

[2] ARCA appointed an organization representative, a regional center employee involved in direct service delivery and an Executive Director or Board Member of a regional center.

represent service providers in the specific topic areas[3], and three organizations representing other aspects of our system[4]. Legislative staff also attended the workgroup meetings. The workgroup meetings began in March and continued through mid-April and included over 70 hours of discussion. The Department greatly appreciates the active participation of the workgroup members and their efforts to maintain the system while bridging these difficult budget times.

The savings proposals are intended to provide more uniformity and consistency in the administrative practices and services of the 21 regional centers, promote appropriateness of services, maximize efficiency of funding, and improve cost effectiveness. The Department considered the following in the development of the savings proposals: eligibility, duration, frequency, efficacy, community integration, service provider qualifications and performance, rates, parental and consumer responsibilities, and self-directed service options.

Changes in services based on the proposals will continue to be made through the individual program plan (IPP) or individualized family service plan (IFSP) processes. Consideration was given to the impacts of prior reductions in the specific service areas on consumers, families, and providers. For example, respite services were significantly impacted by the reductions made in 2009-10 to the extent there are no proposals directly associated with this service area.

PUBLIC FORUMS

Following completion of the efforts by the eight workgroups, the Department developed savings proposals based on the discussions in the topic area workgroups, survey results, and other input received from the community. The Department presented these proposals at three public forums held in Los Angeles on May 5, 2011; Sacramento on May 6, 2011; and Oakland on May 9, 2011. Additional input from the community was received and considered, especially regarding the impacts of the proposals. Accessibility by teleconference was provided at each of the forums for those individuals interested in providing input but who were unable to attend the meetings in person.

The public forums were attended by over 1,000 participants with another 170 individuals joining by teleconference. The Department heard testimony from nearly 300 stakeholders during the three forums and received over 150 written comments. Based upon the input received at the public forums and further program and fiscal analysis, revisions were made to the proposals that had previously been published on the DDS website and provided to the public. Following are the final proposals for your consideration and approval.

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[3] Topic specific organizations appointed a consumer/family member, a service provider and an organization representative.

[4] These organizations appointed one representative and included the DDS Consumer Advisory Committee, University Centers of Excellence in Developmental Disabilities and an association representing individuals in Developmental Centers (CASHPCR)

PROPOSALS FOR ACHIEVING SAVINGS

1. INCREASING FEDERAL FUNDS FOR REGIONAL CENTER PURCHASED CONSUMER SERVICES.

Summary:

Federal financial participation in the funding of regional center consumer services is a critical component of the State's budget. Currently, federal funding comprises nearly $1.7 billion of the funding for regional center services. Through this proposal additional federal financial participation in the delivery of regional center consumer services is achieved, with a corresponding decrease in needed State GF dollars.

The Department, through the regional center system, operates a federally approved 1915 (c) Home and Community-Based Services Waiver (Waiver) with a projected 91,933 enrollees in FY 2011-12. Federal reimbursements for the Waiver program in FY 2011-12 are $1.032 billion (includes Waiver services, clinical teams at regional centers, and administrative costs) per the January 2011 budget. The Department submitted a 1915 (i) State Plan Amendment (SPA) to the federal government in December 2009, with an October 1, 2009 effective date. Through this SPA, the Department will receive federal financial participation in the funding of services received by active regional center consumers (an estimated 40,000) with Medi-Cal benefits who do not meet the level of care criteria for the Waiver. The January 2011 budget reflects an estimated $160.8 million in federal reimbursement for regional center expenditures associated with the 40,000 consumers projected for coverage under this federal program. Federal funding is also received for the cost of day and transportation services provided to regional center consumers residing in intermediate care facilities. The January 2011 budget includes an estimated $52.8 million in federal reimbursements associated with the cost of these services for the approximately 7,000 regional center consumers residing in these facilities. The Department also receives federal funding through the Money Follows the Person (MFP) Grant related to individuals moving from developmental centers. MFP funding is available to assist individuals in transitioning out of institutions, such as Lanterman Developmental Center, and provides 12 months of service funding upon relocation into a community setting, at an enhanced federal share. The May Revision budget updates federal funds to reflect implementation of the proposals included in this package.

Workgroup participants discussed possible new funding options through the federal 1915 (k) Community Living Options which becomes available to states in October 2011, as well as ways to expand receipt of federal funding through the Department's Home and Community-based Waiver, the 1915(i) SPA, and the federal MFP Grant in which the Department participates. This proposal assumes increased federal funding in all of these areas. Workgroup members also recommended consumers and families provide a copy of their Medi-Cal, Medicare, and insurance cards at the time of the IPP to ensure federal and other resources are maximized. The Department's proposal includes this recommendation.

Savings:

<u>FY 2011-12 savings</u>

Total Funds (TF):	$0 (fund shift)
GF:	$20,932,000

<u>FY 2012-13 savings</u>

TF:	$0 (fund shift)
GF:	$22,515,000

This proposal assumes more federal funding in the Department's budget by adding Voucher – Nursing Services to the Waiver ($.5 million GF); claiming federal money at an enhanced federal match for the first 12 months of services under the MFP Grant for consumers moving from intermediate care, nursing and sub-acute facilities to integrated community living arrangements ($3.4 million GF annually, $1.9 million GF in FY 2011-12); capturing an additional 6 percent of federal funding for 12 months under the 1915 (k) option for eligible consumer services if such services are added to the State Medicaid Plan ($1.2 million GF); receiving federal matching funds for the purchase of infant development programs for Early Start consumers with Medi-Cal ($13.2 million GF); and obtaining additional federal funding based on updated expenditures for the 1915 (i) SPA ($4.1 million GF).

Implementation:

This proposal will be effective upon approval of the Legislature. The Department will include in its Waiver renewal request the addition of Voucher- Nursing Services for federal approval, effective October 1, 2011. Implementation of the proposals relative to the 1915 (k) option and obtaining federal financial participation for Early Start infant development programs will require approval of the federal government. Legislation will be needed to require the submittal of benefit cards.

Anticipated Impacts:

Additional federal funds will be applied for and received reducing the use of General Fund. To maximize federal financial participation (FFP) and other funding sources, consumers and families will be requested to provide health care benefit cards to the regional centers for possible third-party billing for consumer services.

2. Decreasing Department of Developmental Services Headquarters Contracts

Summary:

The Department contracts with a number of organizations to implement programs and projects that provide support, services, and technical assistance across all regional centers. The January 2011 budget included $24.1 million ($21.0 million GF) for system wide contracts. In addition to statewide reductions to the headquarters' budget, such as hiring freezes, furloughs, and wage reductions, the Department proposes to reduce six contracts and discontinue one non-mission critical projects, as follows:

Information Technology: The Department's contract with the state-operated data center for support of data systems and data processing will be reduced from $4,517,000 to $3,972,000, consistent with a similar reduction made in the current year due to operational efficiencies. This proposal and will save $545,000 GF.

Clients' Rights Advocacy: The Department's contract with Disability Rights California to provide consultation, representation, training, investigation, and compliance with clients' rights will be held at the current year funding level of $5.295 million for a savings of $250,000 ($200,000 GF).

Quality Assessment: The Department contracts with independent organizations to conduct surveys and analyses of consumers and family members about satisfaction with services and personal outcomes. This project will be reduced to $3.235 million which does not reduce the contracts below their current year funding. In FY 2009-10, the Department achieved GF savings of $2.287 million by consolidating Life Quality Assessment and Movers Study into one improved quality assurance project. This proposal will save $530,000 ($424,000 GF).

Direct Support Professional Training (DSPT): The Department contracts with the California Department of Education to administer the DSPT training and testing through the Regional Occupational Programs. This contract will be reduced from $3.582 million to $3.442 million. This reduction will not affect the Department's ability to schedule DSPT trainings at Lanterman Developmental Center for staff that choose to work in the community. This proposal will save $140,000 ($85,000 GF).

Office of Administrative Hearings: The Department contracts with the Office of Administrative Hearings to conduct fair hearings required by the Lanterman Act and mediation and fair hearing services required by the California Early Intervention Services Act. The current year level of funding, $3.15 million, will be maintained without affecting the rights of consumers and families to the fair hearing and mediation processes. This proposal will save $250,000 ($200,000 GF).

Special Incident Reporting/Risk Management: To maintain and increase federal Home and Community-Based Services Waiver funding, the Department contracts with an independent entity to conduct data analysis, training, site reviews, and provides data, training, and analytical services that mitigate and reduce special incidents. The Department will prioritize the work of this contractor such that federal concerns are addressed while achieving savings. This contract will be reduced from $940,000 to $840,000 and achieve savings of $100,000 GF.

Self-Directed Services - Training and Development: The Department will reprioritize existing resources to develop and conduct the anticipated training associated with the Self-Directed Services Waiver, if and when it is approved by the federal government. The Waiver was submitted in 2008. This proposal will save $200,000 GF.

Savings:

FY 2011-12 savings
TF: $2,015,000
GF: $1,754,000

FY 2012-13 savings
TF: $2,015,000
GF: $1,754,000

Implementation:

These proposals will be effective upon approval of the Legislature. No statutory changes are required.

Anticipated Impacts:

The savings will be achieved through the reduction of six statewide contracts and discontinuation of one non-mission critical project that will have no direct impact on consumers, families or service providers.

3. Reductions and Efficiency in Regional Center Operations Funding

Summary:

The Department contracts with 21 private, nonprofit regional centers to provide, among other activities specified in law, intake and assessment and life long voluntary case management services to eligible individuals pursuant to the Lanterman Act. Regional centers were created in statute to provide fixed points of contact in the community for persons with developmental disabilities and their families so they may have access to the services and supports best suited to them throughout their lifetime. In FY 2011-12, the regional centers are expected to serve over 250,000 consumers. The law requires that 85 percent of a regional center's operations funding is used for the provision of direct services.

Regional centers play a critical role in the Department's ability to receive and maintain federal funding for the delivery of consumer services. Currently, over $1.7 billion in federal funding is included in the budget for regional center services. It is through the regional center system that the Department meets the federal requirements for the approved Home and Community-Based Services Waiver program. Regional centers are responsible for ensuring that eligible consumers who want to participate on the Waiver are enrolled, service providers meet the qualifications for providing Waiver services, individual program plans are developed and monitored, consumer health and welfare is addressed, and financial accountability is assured. Regional centers also play a similar role in meeting the federal requirements for the Department's receipt of federal funding in the day and transportation services of approximately 7,000 consumers residing in intermediate care facilities, and the 1915 (i) SPA under review by the Centers for Medicare and Medicaid Services.

The workgroup participants called for reductions to regional center operations as a component of the Department's reduction proposals. There was discussion regarding the implementation of efficiencies that would reduce regional center funding and staffing needs. This proposal achieves reductions through the implementation of provider electronic billing; the elimination of regional center staff positions[5]; funding for one-time costs associated with office relocations or modifications; and funding allocated to regional centers for accelerated enrollment of new Waiver participants (since under the 1915 (i) SPA the Department will receive federal funding for services to virtually all of the remaining Medi-Cal beneficiaries served by the regional centers who reside in non-institutional settings as defined by the federal government, and are not otherwise covered by another federal program). In addition, the proposal assumes an unallocated reduction to the operations budget.

Reductions to regional center operations of $13.7 million were a component of proposals to achieve the $334 reduction in FY 2009-10. Funding was eliminated for triennial quality assurance reviews, one-time funding was reduced for office relocations and modifications, and funding was reduced based on eligibility changes in the Early Start Program and the subsequent implementation of the Prevention Program. In addition, the FY 2011-12 budget for regional center operations was reduced by actions already taken by the Legislature totaling $27.7 million ($27.4 million GF) including continuation of the 4.25 percent

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[5] Regional center staff-related reductions include elimination of the positions associated with implementation of the Self-Directed Services Waiver for which federal approval has been pending since 2008; savings associated with the Department's overestimated need for community placement plan resources; and rollback of prior year staffing increases.

payment reduction, administrative cost limits, auditing requirements, conflict of interest requirements, staffing reductions, and increased federal funding.

Savings:

FY 2011-12 savings
TF: $14,565,000
GF: $14,132,000

FY 2012-13 savings
TF: $15,881,000
GF: $15,015,000

The savings will be achieved through staff reductions, efficiencies and an unallocated reduction in operations, as follows:

- Self Directed Services Waiver Reduced Staffing ($0.9 million GF)
- Community Placement Plan Reduced Staffing ($0.3 million GF) – described later in this document under the Community Placement Plan proposal.
- Roll Back of Prior Year Staffing Increase ($1.9 million GF)
- Reduced Accelerated Waiver Enrollment Funding ($1.8 million GF)
- Administrative Efficiency - Electronic Billing Process to All Providers ($2.6 million TF, $1.8 million GF; FY 2011-12 savings due to implementation lags are $1.3 million TF, $0.9 million GF)
- Eliminate Costs for Office Relocations and Modifications ($3.0 million GF)
- Unallocated Reduction ($5.4 million GF)

Implementation:

This proposal will be effective upon approval of the Legislature. Legislation will be needed to implement the electronic billing administrative efficiencies.

Anticipated Impacts:

The accumulated impact of reductions in regional center operations can impact the responsiveness to consumers, families and service providers; could result in increased case manager caseloads; and could impact the regional centers' ability to meet federal requirements for receipt of federal funding.

4. Community Placement Plan Funding

Summary:

As described in Welfare and Institutions Code section 4418.25, the Department has a statutory responsibility to ensure that individuals with developmental disabilities live in the least restrictive setting, appropriate to their needs. The law establishes a Community Placement Plan (CPP) process designed to assist regional centers in providing the necessary services and supports for individuals to move from developmental centers. It also provides the resources necessary to stabilize the community living arrangements of individuals who are at risk of placements in a developmental center (deflection).

Under the CPP process, each regional center develops and submits an annual CPP to the Department based on the needed resources, services, and supports for consumers moving from a developmental center, as well as the resources needed to prevent developmental center admission. The Department requests CPP funding through the budget process. CPP has to be implemented in accordance with the plan approved by the Department.

CPP has resulted in more people moving from, and reduced admissions to, the developmental centers. In the past five years, regional centers have facilitated the placement of 1,168 consumers and have reduced admissions. For example, in FY 2005-06, sixty-six (66) consumers were admitted to developmental centers with thirty-four (34) consumers admitted in FY 2009-10.

The Department closed Agnews Developmental Center in FY 2008-09 and the state-operated community facility, Sierra Vista, in FY 2009-10. The Department is in the process of closing Lanterman Developmental Center.

As part of the planning process, regional centers must forecast the dates consumers will move into the community as well as when resources will come on line. Often new vendors are needed and development of individualized resources, especially licensed residential arrangements, can take longer than anticipated. Consequently, the Department and each regional center are continuously harmonizing the amount of funds needed to implement the CPP.

The Department has conducted an extensive analysis of the funds budgeted, allocated, and expended and has determined that CPP can be reduced by $10 million ($7.3 million GF) by funding CPP closer to the amount actually needed in the current and immediately prior FYs. Of this amount, $315,000 is reflected in the proposal to reduce regional center operations funding. This will result in maintaining the level of placements, deflections, start-up activities, and the operational resources needed to design and implement the very individualized CPP. This reduction will <u>not</u> impact the Department and regional center efforts to facilitate consumers moving from a developmental center or prevent admissions to a developmental center.

There were no changes to the CPP in the FY 2009-10 budget reduction process. CPP was not the subject of workgroup discussion.

Savings:

<u>FY 2011-12 savings</u>[6]

TF: $9,685,000

GF: $6,966,000

<u>FY 2012-13 savings</u>[6]

TF: $9,685,000

GF: $6,966,000

Implementation:

This proposal will be effective upon approval of the Legislature.

Anticipated Impacts:

CPP funds will be reduced to reflect actual annual expenditures based on review and analysis of the past two years of regional center needs to ensure continued placements of individuals residing in developmental centers into the community or the deflection from placement into institutions. This reduction will <u>not</u> impact the Department and regional center efforts to facilitate consumers moving from a developmental center or prevent admissions to a developmental center.

5. RATE EQUITY AND NEGOTIATED RATE CONTROL

Summary:

The rate setting methodologies for services funded by regional centers are specified in law. These methodologies include: negotiations resulting in a rate that does not exceed the regional center's median rate for that service, or the statewide median, whichever is lower, and the provider's usual and customary rate (U&C), which means the rate they charge the members of the general public to whom they are providing services. A 4.25 percent payment reduction to regional center funded services went into effect July 1, 2010 (a 3 percent reduction was previously in effect commencing February 2009), but did not apply to service providers with a U&C rate. The intent of the U&C exemption was for businesses that serve the general public without specialty in services for persons with developmental disabilities. This proposal clarifies that the exemption to the 4.25 percent payment reductions does not apply to providers specializing in services to persons with developmental disabilities. This proposal also calls for the Department to update the calculation of the regional center and statewide median rates, established as part of the 2008-09 budget reductions, applicable to new vendors providing services for which rates are set through negotiation. The

[6] The remaining $315,000 GF is reflected in the proposal, Reductions and Efficiency in Regional Center Operations Funding.

proposal only impacts providers who were not previously impacted by the 4.25 percent payment reduction and new providers of negotiated rate services.

This proposal is consistent with workgroup discussions regarding the U&C modification and suggestions that any rate changes be focused on new or higher rate providers.

Savings:

<u>FY 2011-12 savings</u>

TF: $6,008,000
GF: $3,432,000

<u>FY 2012-13 savings</u>

TF: $14,312,000
GF: $ 9,568,000

Savings Detail:

<u>4.25 Percent Payment Reduction for Usual and Customary Rates</u>

- Annual Savings: $1.0 million ($0.8 million GF)
- FY 2011-12 Savings: The annual savings is achievable in FY 2011-12 for savings of $1.0 million ($0.8 million GF)

<u>Median Rates</u>

- Annual Savings: $13.3 million ($7.0 million GF)
- FY 2011-12 Savings: $5.0 million ($2.6 million GF)

Implementation:

This proposal will be effective upon approval of the Legislature. The 4.25 percent payment reduction can be implemented immediately and the Department will update the median rates used by regional centers for new providers of applicable services effective October 1, 2011.

Anticipated Impacts:

The proposal only impacts providers who were not previously impacted by the 4.25 percent payment reduction and new providers of negotiated rate services.

6. Annual Family Program Fee

Summary:

There are currently two family participation programs in the Department. The first is a Parental Fee for families with children ages 0 through 17 who have been placed out of the family home. The second is the Family Cost Participation Program (FCPP) for families of children ages 0 through17 who receive day care, respite, and camping services. In response to State budget pressures, both programs were recently changed to increase parental participation.

This proposal establishes an annual family program fee in the amount of $150 or $200, depending on family income, that will be assessed for families of consumers receiving services from the regional centers who meet the following criteria:

- The child is under age 18.
- The child lives at home with their parent(s).
- The child is not eligible for Medi-Cal.
- The family's income is at or above 400 percent of the Federal Poverty Level (FPL) based upon family size.
- The child or family receives services beyond eligibility determination, needs assessment, and case management. Families of consumers who only receive respite, day care, and/or camping services are also excluded under the Annual Family Program Fee if assessed separately in the Family Cost Participation Program (FCPP).

The authorizing legislation would include an exemption process for families with special circumstances. Families with two or more children receiving regional center services would be charged only one fee.

Savings:

FY 2011-12 savings

TF:	$3,600,000
GF:	$3,600,000

FY 2012-13 savings

TF:	$7,200,000
GF:	$7,200,000

Implementation:

This proposal will be effective upon approval of the Legislature. The annual family program fee will be assessed by regional centers at the time of the development of the IPP/IFSP, but no later than June 30, 2012, and annually thereafter. Legislation will be required for implementation and federal approval may be required for consumers in the Early Start Program.

Anticipated Impacts:

It is estimated that there will be over 42,000 families responsible for paying an Annual Family Program Fee. Families of consumers, ages 0 through 17, will be required to pay the fee when they receive services from a regional center, with the exception of eligibility determination, needs assessment, and case management services. If a family only receives respite, day care and camping services, they will not be subject to the fee, as they participate in the Family Cost Participation Program when receiving these services. An exemption process for families with special circumstances would be outlined in the authorizing legislation. Families with two or more children receiving regional center services would be charged only one fee.

7. Maintaining the Consumer's Home of Choice – Mixed Payment Rates in Residential Facilities with Alternative Residential Model (ARM) Rates

Summary:

Rather than a consumer having to leave their preferred residential living arrangement because their service and support needs have changed, this proposal allows for regional center payment of a lower rate that meets the needs of the individual while leaving intact the higher level of services and support for the other individuals residing in that home and the facility's ARM service level designation.

Current regulations for ARM facilities (Title 17, Section 56902) allow regional centers to negotiate a level of payment for its consumers that is lower than the vendored rate established by the Department (ARM rate). However, the vendor must still provide the same level of service (i.e. staffing ratios and hours, and consultant services) for which they are vendored (i.e. the designated ARM service level for the facility). This proposal would allow, pursuant to the consumer's IPP, and a written agreement between the regional center and residential provider, a lower payment rate for a consumer whose needs have changed but wants to maintain their residency in the home, without impacting the facility's ARM service level designation.

This concept was discussed in the Residential Services Workgroup for potential cost savings.

The majority of consumers living in 24-hour residential care reside in ARM facilities. The FY 2011-12 budget includes $871.1 million to fund residential services for over 21,000 consumers living in over 4,700 community care facilities.

In the FY 2009-10 adopted budget reduction proposals, residential services were impacted by the implementation of the Uniform Holiday Schedule for Day Programs. When programs impacted by the holiday schedule were closed, residential facilities had associated increased staffing costs.

Savings:

__FY 2011-12 savings__

TF: $2,255,000
GF: $1,364,000

__FY 2012-13 savings__

TF: $4,176,000
TF: $2,526, 000

Implementation:

This proposal will be effective upon approval of the Legislature. For the consumer, a change in the level of residential services would be done through the IPP process, and subsequently through a contract between the regional center and residential service provider. If a consumer's needs subsequently increase, the services and the corresponding rate will be adjusted accordingly.

Anticipated Impacts:

Consumers will be able to stay in their home of choice. For the consumer, a change in the level of residential services would be done through the IPP process, and subsequently through a written agreement between the regional center and the residential provider. Although the rate for the service will decrease, the service provider staffing requirements would also be adjusted.

8. MAXIMIZE UTILIZATION OF GENERIC RESOURCES - EDUCATION SERVICES

Summary:

Publicly funded school services are available to regional center consumers to age 22. The Lanterman Act requires the use of generic services to meet the needs of the consumers, as applicable, and further states that regional centers shall pursue all possible sources of funding for consumers receiving regional center services, including school districts (Welfare and Institutions Code section 4659). The California Education Code addresses education and related services to pupils 18 to 22 years of age. The Education Code lists services provided by the school system, including orientation and mobility services, school transition services, specialized driver training instruction, specifically designed vocational education and career development, and transportation. For consumers who remain eligible for services through the public school system, this proposal requires the regional centers to use the generic education resources in lieu of purchasing day program, work/employment, independent living, mobility training and associated transportation services on their behalf. Regional centers may encourage schools to use existing vendors to meet consumer needs.

Workgroup participants recommended greater reliance on the educational system for services, as appropriate. Participants expressed the need to maximize service provision through the mandated transition plan for individuals with special education needs.

The budget reductions in FY 2009-10 required regional centers to use generic educational services for minor school aged children, with exceptions in statute.

Savings:

FY 2011-12 savings

TF:	$13,696,000
GF:	$10,236,000

FY 2012-13 savings

TF:	$18,188,000
GF:	$13,593,000

Implementation:

This proposal will be effective upon approval of the Legislature. The IPPs of consumers 18 to 22 years of age receiving regional center funded day, independent living, and/or associated transportation services potentially impacted by the implementation of this proposal will need to be reviewed to determine eligibility for the generic educational services. The estimate assumes the use of generic education resources will be addressed through the IPP for consumers currently receiving the identified services through the regional center. All changes to existing plans will be done through the IPP process.

Anticipated Impacts:

Consumers, ages 18 to 22, based upon the services identified in their IPP, will receive generic education services through the public education system, rather than the regional centers.

9. Supported Living Services: Maximizing Resources

Summary:

Supported Living Services (SLS) is a community living option that supports adult consumers who choose to live in homes they control through ownership, lease, or rental agreement. In supported living, a consumer pays for living expenses (e.g. rent, utilities, food, and entertainment) out of Social Security Income, work earnings or other personal resources. The regional center pays the vendor to provide the SLS. The consumer may also receive other kinds of publicly-funded services like Medi-Cal, mental health services, vocational services, and In-Home Supportive Services (IHSS).

It is estimated that for FY 2011-12, 9,803 consumers will receive SLS at a total cost of approximately $383 million. In the past five years, the number of consumers using SLS has increased by 33 percent and expenditures have grown by 83 percent.

During workgroup meetings, participants discussed ways to maximize regional center funded services while maintaining the individualized nature of SLS. Consumers who share a household with other adults may also share common tasks. Savings for SLS could be accomplished through identifying the shared tasks that can be provided at the same time, provided each person's needs are met. Identifying, during IPP meetings, shared tasks, such as meal preparation and clean up, menu planning, laundry, shopping, general household tasks, and errands, would enable the SLS provider to provide efficiencies in SLS services.

A second area of discussion among participants was how the amount and type of SLS service is determined. Currently, most providers conduct this assessment as an important component of getting to know the consumer they will be supporting. The workgroup discussed the value of conducting an independent assessment when service needs are significant, while preserving the need for the provider to have a comprehensive understanding of the type and amount of services needed.

To maximize resources in SLS, this proposal would require regional centers to assess during IPP meetings whether there are tasks that can be shared by consumers who live with roommates. Secondly, an independent needs assessment will be required for all consumers who have SLS costs that exceed 125 percent of the annual statewide average cost of providing supported living service. The assessment would be completed by an entity other than the SLS agency providing service and be used during IPP meetings to determine the services provided are necessary and sufficient and that the most cost effective methods of service are utilized.

As part of FY 2009-10 reductions, SLS achieved savings of $22.9 million in Total Funds and $15.1 million in GF. Savings were associated with SLS vendors helping consumers get IHSS within five days of moving into supported living; regional centers reviewing SLS rates and only supplementing consumer's rent in extraordinary circumstances; and having consumers using SLS who share a home use the same SLS provider if possible.

Savings:

FY 2011-12 savings
TF: $9,948,000
GF: $5,461,000

FY 2012-13 savings
TF: $19,896,000
GF: $10,924,000

Savings Detail:

SLS – Independent Assessments

- Annual Savings: $12.2 million ($6.7 million GF)

- FY 2011-12 Savings: The savings will be phased-in throughout the first year; therefore, 50 percent of the annual savings is assumed in FY 2011-12 for $6.1 million ($3.4 million GF).

SLS – Shared Tasks

- Annual Savings: $7.7 million ($4.2 million GF)

- FY 2011-12 Savings: The savings will be phased-in throughout the first year; therefore, 50 percent of the annual savings is assumed in FY 2011-12 for $3.8 million ($2.1 million GF).

Implementation:

This proposal will be effective upon approval of the necessary statutory changes by the Legislature. Changes to an individual's SLS will be made through the IPP process.

Anticipated Impacts:

Consumers will receive SLS services as identified in their IPP. In some instances and where appropriate, some SLS services may be shared with roommates. The independent assessment will be utilized by the IPP team when determining the appropriate level of services based on the consumer's needs.

10. Individual Choice Day Services

Summary:

Over the past several years there has been extensive community discussion regarding best practices for delivery of day services. Consumers, family members, regional center staff, and vendors have publicly testified that the current array of day services options is insufficient to meet changing consumer needs. Young consumers want the opportunity to attend college and to develop the job skills necessary to get stable employment. Other adults want the opportunity to contribute to their community through volunteerism or simply have the flexibility to tailor when, where, and how often they attend a day program. A number of consumers want the opportunity to direct their day services.

Twenty-five percent of the regional center purchase of service budget is spent on Day Program and Habilitation Services (i.e., work services.) The Department estimates expenditures of nearly $930 million in FY 2011-12 for these programs.

To achieve savings in FY 2009-10, the Department proposed three strategies that impacted day program services: expansion of the Uniform Holiday Schedule, an option for reduced programming for Seniors, and Custom Endeavor Option (CEO) to allow for more individualized services. The proposed GF savings were Uniform Holiday Schedule $16.3 million; Senior Option $1 million; and CEO $12.7 million. However, only the Uniform Holiday Schedule change achieved savings. Virtually no savings were achieved for the Senior or CEO Options.

During recent workgroup meetings, the Senior and CEO Options, and the barriers associated with implementing them, were discussed. The workgroup members conveyed to the Department that savings were difficult to achieve due to regulatory restrictions on staffing ratios, not being able to backfill if a consumer chose a different option, and the difficulty of implementing the options within the current rate structure. Workgroup participants advised the Department to review individualized day program service options and address the barriers surrounding fixed staffing ratios and operating costs when proposing any individual choice options. The Residential Services workgroup raised concerns about the practice of some day programs ending the program day very early and returning consumers to their residence after a few hours, thereby shifting costs.

The Department considered the input from the workgroups and community concerning the importance of consumers having alternative choices to traditional day programs in its development of the FY 2011-12 proposals. Two of the proposals presented by the Department address the community's eagerness for greater consumer choice in day services. These proposals also deal with the barriers expressed by providers in implementing the FY 2009-10 proposals.

Tailored Day Program Service Option (TDS): TDS is designed to meet the needs of consumers who choose a program focused on their individualized needs and interests to develop or maintain employment and/or volunteer activities; maximize consumer direction of the service; permit pursuit of post secondary education; and increase the consumer's ability to lead an integrated and inclusive life. In this option, a consumer can choose to attend fewer program days, choose the hours of participation, or change the location. Through the IPP process, the consumer, vendor, and regional center can create a program tailored to the consumer's needs. Once the type and amount of service desired by the consumer is determined, the regional center and vendor can negotiate the appropriate hourly or daily rate. Staffing may be adjusted but must meet all health and safety requirements for the consumer and meet the consumer's tailored needs. Consumers currently engaged in Senior and CEO options will remain in those options, but regional centers will no longer be able to refer to those options.

Vouchered Community-Based Training Service Option (VCTS): VCTS is designed for consumers and/or parents who choose to directly hire a support worker to develop functional skills to achieve community integration, pursue post secondary education, employment, or participation in volunteer activities. A Financial Management Services entity will be available to assist the consumer in payroll activities and up to 150 hours of services are available each quarter.

Modified Full and Half-Day Program Attendance Billing: The proposal modifies the current billing for day programs that bill a daily rate. A full day of service is defined as at least 75 percent of the declared and approved program day; a half day of service is any attendance less than a full day of service. Currently, regulations governing the provision of day programs are silent on what constitutes a full or half-day for billing purposes. This proposal would ensure the consumer is receiving the level of services purchased. This requirement will not apply to TDS or VCTS services.

Savings:

FY 2011-12 savings

TF: $12,839,000
GF: $ 9,629,000

FY 2012-13 savings

TF: $16,477,000
GF: $12,358,000

The individual choice day service and modified billing proposals combined are designed to achieve the expected but unachieved savings associated with the Senior and CEO Options enacted in the 2009-10 budget process.

Savings Detail:

Tailored Day Program Service Option

- Annual Savings: $9.4 million ($7.0 million GF)

- FY 2011-12 Savings: The savings in FY 2011-12 assumes nine months of savings to address delays in identifying and implementing the various consumer driven options. This results in FY 2011-12 savings of $7.0 million ($5.3 million GF)

Vouchered Community-Based Training Service Option

- Annual Savings: $5.2 million ($3.9 million GF)

- FY 2011-12 Savings: The savings in FY 2011-12 assumes nine months of savings to address delays in identifying and implementing the various consumer driven options. This results in FY 2011-12 savings of $3.9 million ($2.9 million GF)

Modified Full and Half-Day Program Attendance

- Annual Savings: $1.9 million ($1.4 million GF)

- FY 2011-12 Savings: The annual savings is achievable in FY 2011-12 for savings of $1.9 million ($1.4 million GF)

Implementation:

This proposal will be effective upon approval of the necessary statutory changes by the Legislature. Implementation of the TDS and VCTS options will be individualized and phased in through the IPP process. Federal approval will be needed to receive federal funding for the VCTS program.

Anticipated Impacts:

Based upon their IPP, some consumers will elect to receive TDS or VCTS services for opportunities to develop or maintain employment and/or volunteer activities; maximize direction of their service; pursue post secondary education; and increase their ability to lead an integrated and inclusive life. The proposal regarding half-day billings will ensure service providers are paid for the services they provide, based on the consumer's actual attendance.

11. Maximizing Resources for Behavioral Services

Summary:

Behavioral Services are services that provide instruction and environmental modifications to promote positive behaviors and reduce behaviors that interfere with learning and social interaction. Behavioral Services can include designing, implementing and evaluating teaching methods, consultation with specialists, and behavioral interventions. It can also include training for consumers and/or parents on the use of behavioral intervention techniques and home-based behavioral intervention programs that are implemented by parents for their children. Department regulations establish the qualifications for the various professionals delivering these services.

This proposal would require parents to verify receipt of Behavioral Services provided to their child. This proposal would also authorize the Department to promulgate emergency regulations to establish a new service to address the use of paraprofessionals in group practice behavioral intervention services and establish a rate.

Spending on Behavioral Services has increased steadily. Last year, nearly $249 million was spent to provide services to over 20,000 consumers. This year, the Department anticipates spending over $291 million on Behavioral Services.

During recent workgroup meetings, participants discussed whether having parents confirm the provision of Behavioral Services would reduce the unintended occurrence of incorrect billings. Behavioral Services provided to children are often frequent in occurrence, increasing the possibility of inaccurate billings.

Additionally, workgroup members felt that allowing qualified paraprofessionals to provide intervention services could result in cost savings. Participants considered that undergraduates studying in a field relevant to behavioral intervention and other individuals with experience working with people with developmental disabilities could, with sufficient supervision and training, provide some intervention services. Because these workers would be paraprofessionals operating with a group practice, the rate of pay could be lower while maintaining the quality and consistency of the service.

In FY 2009-10, the Department implemented statute calling for regional centers to purchase Behavioral Services consistent with evidence-based practices and addressing the role of parents in the treatment plan. The usefulness of an intervention plan is now reviewed on a regular basis to ensure goals and objectives are met. These strategies were estimated to save $21 million in GF ($30 million in Total Funds). Savings were partially achieved.

Savings:

<u>FY 2011-12 savings</u>

TF: $4,893,000
GF: $3,852,000

<u>FY 2012-13 savings</u>

TF: $4,893,000
GF: $3,852,000

Savings Detail:

<u>Parent Verification of Receipt of Services</u>

- Annual Savings: $2.7 million ($2.0 million GF)
- FY 2011-12 Savings: The annual savings is achievable in FY 2011-12 for savings of $2.7 million ($2.0 million GF)

<u>Establish Paraprofessional Service</u>

- Annual Savings: $2.5 million ($1.9 million GF)
- FY 2011-12 Savings: The annual savings is achievable in FY 2011-12 for savings of $2.5 million ($1.9 million GF)

Implementation:

This proposal will be effective upon approval of the Legislature. Statutory changes will be required to implement the parental verification. Regulations will be developed to add the paraprofessional services.

Anticipated Impacts:

A new paraprofessional option will be available to provide behavioral services at a lower rate. Parents will be required to confirm the provision of behavioral services.

12. Transfer Reduced Scope Prevention Program to the Family Resource Centers

Summary:

The Prevention Program was established on October 1, 2009, to provide services in the form of intake, assessment, case management, and referral to generic agencies for those infants and toddlers, 0 to 2 years of age, who are not eligible for Early Start services but who are at risk for developmental delay. The program was established subsequent to changing eligibility for the Early Start program to what is required for receipt of grant funding under the federal Individuals with Disabilities Education Act (IDEA), Part C. Prevention Program services are provided through the regional centers.

As of March 2011, there were 3,258 children in the Prevention Program. Regional centers are funded through a block grant, based on caseload. In FY 2010-11, $18,150,000 of GF was allocated. The Prevention Program is currently budgeted at $12 million for FY 2011-12.

This proposal would decrease the required functions of the Prevention Program to information, resource, outreach, and referral; transfer responsibility for these functions to Family Resource Centers (FRC); and reduce funding to $4.5 million in FY 2011-12 and $2 million in FY 2012-13. Since approximately 3,200 children remain in the Prevention Program, this proposal assumes $2.5 million for regional centers to complete services to the existing caseload and $2 million for FRCs to serve new referrals. Beginning July 1, 2012, the program would be completely transferred to the FRCs through a contract between the Department and the Family Resource Center Network of California, or a similar entity.

Regional centers will continue to provide intake, assessment, and evaluation for the Early Start Program. Infants and toddlers ineligible for the Early Start or Lanterman Act Programs would be referred, with parental consent, to the FRCs.

The workgroup participants discussed the under utilization of the Prevention Program and suggested review for cost and program effectiveness.

In FY 2009-10, budget savings of $54.5 million were achieved through narrowing the criteria for eligibility for the Early Start Program to what is required for the federal IDEA, Part C funding. Additional legislation was passed to discontinue the provision of non-federally required services. Parents were also required to use private insurance, if available, for services.

Savings:

FY 2011-12 savings

TF: $7,500,000
GF: $7,500,000

FY 2012-13 savings

TF: $10,000,000
GF: $10,000,000

The savings assumes a transition period for individuals currently in the Prevention Program and referral of new infants and toddlers to FRCs.

Implementation:

This proposal will be effective upon approval of the necessary statutory changes by the Legislature.

Anticipated Impacts:

Infants and toddlers, 0 through 2 years of age, who are not eligible for Early Start services will be referred to Family Resource Centers for services. Infants and toddlers who would have been receiving services in the Prevention Program administered by the regional center, will not receive case management services.

13. ENHANCING COMMUNITY INTEGRATION AND PARTICIPATION – DEVELOPMENT OF TRANSPORTATION ACCESS PLANS

Summary:

Current law provides that regional centers will not fund private, specialized transportation services for an adult consumer who can safely access and utilize public transportation when that transportation modality is available and will purchase the least expensive transportation modality that meets a consumer's needs as set forth in the IPP/IFSP. To maximize consumer community integration and participation and to address barriers to the most integrated transportation services, a transportation access plan would be developed at the time of the IPP, for consumers for whom the regional center is purchasing specialized transportation services or vendored transportation services from the consumer's day, residential or other provider receiving regional center funding to transport the consumer to and from day programs, work and/or day activities. The plan would address the services needed to assist the consumer in developing skills to access the most inclusive transportation option that can meet the consumer's needs. The Transportation Workgroup recommended the requirement for the development of transportation access plans.

The FY 2009-10 reduction proposals resulted in annual savings of $39.9 million in Total Funds and $36.6 million in General Funds in the area of transportation. In addition to the statutory provision above regarding the funding of private, specialized transportation services, the law specifies that the regional centers may now only fund transportation for a minor child living in the family residence if the family provides sufficient written documentation to demonstrate that it is unable to provide transportation for the child.

Savings:

FY 2011-12 savings

TF:	$1,473,000
GF:	$1,075,000

FY 2012-13 savings

TF:	$2,945,000
GF:	$2,150,000

In addition to this proposal, transportation savings are also identified in the "Individual Choice Day Services" proposal and the "Maximize Utilization of Generic Resources - Education Services" proposal.

Implementation:

This proposal will be effective upon approval of the Legislature. Through the IPP process, transportation access plans will be developed for consumers as appropriate.

Anticipated Impacts:

Based upon their IPP, adult consumers currently receiving specialized or vendored transportation services will have a transportation plan for developing skills to access the most inclusive transportation option that meets the consumer's needs.

IMPLEMENTING LEGISLATION

Proposed legislation to implement these proposals is attached.

Department of Developmental Services
Proposals to Achieve $174 Million in General Fund Savings

	2011-12 TF	2011-12 GF	Annual TF	Annual GF
Reduced Expenditure Savings that Allow Reduction in Savings Required through Proposals	$ 55,603,000	$ 55,603,000	$ 55,603,000	$ 55,603,000
1. Increasing Federal Funding for Regional Center Purchased Consumer Services	$ -	$ 20,932,000	$ -	$ 22,515,000
• Add Voucher - Nursing Services to the HCBS Waiver	$ -	$ 528,000	$ -	$ 528,000
• Money Follows the Person for Residents of Institutional Settings	$ -	$ 1,881,000	$ -	$ 3,464,000
• Enhanced Funding from 1915(k) Medicaid State Plan	$ -	$ 1,200,000	$ -	$ 1,200,000
• Obtain Federal Funding for Infant Development Program	$ -	$ 13,223,000	$ -	$ 13,223,000
• 1915(i) New Expenditures	$ -	$ 4,100,000	$ -	$ 4,100,000
2. Decreasing Department of Developmental Services Headquarters Contracts	$ 2,015,000	$ 1,754,000	$ 2,015,000	$ 1,754,000
• Information Technology	$ 545,000	$ 545,000	$ 545,000	$ 545,000
• Clients' Rights Advocacy	$ 250,000	$ 200,000	$ 250,000	$ 200,000
• Quality Assessment	$ 530,000	$ 424,000	$ 530,000	$ 424,000
• Direct Support Professional Training	$ 140,000	$ 85,000	$ 140,000	$ 85,000
• Office of Administrative Hearings	$ 250,000	$ 200,000	$ 250,000	$ 200,000
• Risk Management	$ 100,000	$ 100,000	$ 100,000	$ 100,000
• Self Directed Services Training	$ 200,000	$ 200,000	$ 200,000	$ 200,000
3. Reduction and Efficiency in Regional Center Operations Funding	$ 14,565,000	$ 14,132,000	$ 15,881,000	$ 15,015,000
• Self Directed Services Waiver Reduced Staffing	$ 861,000	$ 861,000	$ 861,000	$ 861,000
• Community Placement Plan Reduced Staffing	$ 315,000	$ 315,000	$ 315,000	$ 315,000
• Roll Back of Prior Year Staffing Increase	$ 1,902,000	$ 1,902,000	$ 1,902,000	$ 1,902,000
• Reduced Accelerated Waiver Enrollment Funding	$ 1,771,000	$ 1,771,000	$ 1,771,000	$ 1,771,000
• Administrative Efficiency - Electronic Billing Process to All Providers	$ 1,316,000	$ 883,000	$ 2,632,000	$ 1,766,000
• Eliminate One-Time Costs for Office Relocations and Modifications	$ 3,000,000	$ 3,000,000	$ 3,000,000	$ 3,000,000
• Unallocated Reduction	$ 5,400,000	$ 5,400,000	$ 5,400,000	$ 5,400,000
Proposals Associated with Purchase of Consumer Services	$ 71,897,000	$ 53,115,000	$ 107,772,000	$ 79,137,000
4. Community Placement Plan Funding	$ 9,685,000	$ 6,966,000	$ 9,685,000	$ 6,966,000
5. Rate Equity and Negotiated Rate Control	$ 6,008,000	$ 3,432,000	$ 14,312,000	$ 9,568,000
6. Annual Family Program Fee	$ 3,600,000	$ 3,600,000	$ 7,200,000	$ 7,200,000
7. Maintaining the Consumer's Home of Choice - Mixed Payment Rates in Residential Facilities with Alternative Residential Model (ARM) Rates	$ 2,255,000	$ 1,364,000	$ 4,176,000	$ 2,526,000
8. Maximize Utilization of Generic Resources - Education Services	$ 13,696,000	$ 10,236,000	$ 18,188,000	$ 13,593,000
9. Supported Living Services: Maximize Resources	$ 9,948,000	$ 5,461,000	$ 19,896,000	$ 10,924,000
10. Individual Choice Day Services	$ 12,839,000	$ 9,629,000	$ 16,477,000	$ 12,358,000
11. Maximizing Resources for Behavioral Services	$ 4,893,000	$ 3,852,000	$ 4,893,000	$ 3,852,000
12. Transfer Reduced Scope Prevention Program to the Family Resource Centers	$ 7,500,000	$ 7,500,000	$ 10,000,000	$ 10,000,000
13. Enhancing Community Integration and Participation - Development of Transportation Access Plans	$ 1,473,000	$ 1,075,000	$ 2,945,000	$ 2,150,000
Total Reductions	$ 144,080,000	$ 145,536,000	$ 181,271,000	$ 174,024,000

Attachment #2

DEPARTMENT OF DEVELOPMENTAL SERVICES
1600 NINTH STREET, Room 320, MS 3-9
SACRAMENTO, CA 95814
TDD 654-2054 (For the Hearing Impaired)
(916) 654-1958

August 4, 2011

TO: REGIONAL CENTER DIRECTORS AND BOARD PRESIDENTS

SUBJECT: JUNE 2011 TRAILER BILL LANGUAGE AFFECTING REGIONAL CENTERS

The purpose of this correspondence is to transmit a summary of the recently enacted Trailer Bill (AB 104, Chapter 37, Statutes of 2011) that directly affects regional centers or the developmental services system. This trailer bill language (TBL) became effective July 1, 2011. Regional centers should continue to educate their communities regarding these legislative changes. While this correspondence provides a high level summary of the TBL, a complete and thorough review of TBL (see www.leginfo.ca.gov) is imperative for regional centers' statutory compliance. Clarifying information regarding implementation of TBL is included in several areas below.

Health Benefit Cards
TBL Sections 1, 8 and 9: Section 95020 of the Government Code (Gov. Code) and sections 4643 and 4646.4 of Welfare & Institutions Code[1] were amended, requiring that at the time of intake and assessment for Early Start or Lanterman Act services, and at the time of subsequent development, scheduled reviews, or modification of a consumer's Individualized Family Service Plan (IFSP) or Individual Program Plan (IPP), the consumer, or where appropriate, parents, legal guardian, or conservator must provide copies of any health benefit cards under which the consumer is eligible to receive health benefits, including, but not limited to, private health insurance, a health care service plan, Medi-Cal, Medicare, and TRICARE. If the individual, or, where appropriate, the parents, legal guardians, or conservators, have no such benefits, the regional center may not use that fact to negatively impact the services that the individual may or may not receive from the regional center.

Vendor Electronic Billing (e-billing)
TBL Sections 2 and 7: Section 95020.5 was added to the Gov. Code and section 4641.5 was added, requiring that effective July 1, 2011, regional centers begin transitioning providers and vendors of services purchased through a regional center to electronic billing. "Electronic billing" is defined as the Regional Center e-Billing System web application provided by the Department of Developmental Services (Department).

[1] All citations are to the Welfare and Institutions Code unless otherwise stated.

All providers, vendors and contracted providers of services provided or purchased through a regional center must submit all billings electronically for services provided on or after July 1, 2012, with the exception of the following:

- A provider or vendor whose services are paid for by vouchers, as that term is defined in section 4512 (j).
- A provider or vendor who demonstrates that submitting billings electronically for services presents a substantial financial hardship for the provider.

Implementation: Regional centers are encouraged to develop and share with their community a timeline for, and immediately begin, transitioning vendors to e-billing over the course of the fiscal year.

Transfer Reduced Scope Prevention Program to the Family Resource Centers
TBL Sections 5 and 6: Section 4435 was amended stating that babies identified as being at-risk who were in the prevention program as of June 30, 2011, are to continue in the prevention program until the child reaches 36 months of age, the regional center has determined the child is eligible for Early Start services, the regional center has determined the child is eligible for Lanterman Act services, or June 30, 2012, whichever date is earlier. Effective July 1, 2011, a regional center may not refer any at-risk babies to the prevention program described in section 4435.

Section 4435.1 was added, stating that effective July 1, 2011, the Department shall establish a program for at-risk babies. "At risk babies" means children under 36 months of age who are not eligible for the Early Start or Lanterman Act programs, and whose genetic, medical, developmental, or environmental history is predictive of a substantially greater risk for developmental disability than that for the general population, the presence of which is diagnosed by qualified clinicians. Effective July 1, 2011, when a regional center intake and assessment determination is that a baby is an at-risk baby, the regional center will, with parental consent, refer the baby and family to the family resource center described below, for outreach, information, and referral services.

Effective July 1, 2011, the Department is required to contract with an organization representing one or more family resource centers which receive federal funds to provide outreach, information, and referral services to generic agencies for children under 36 months of age who are not eligible for the Early Start or Lanterman Act programs. The organization with which the Department contracts is to be an organization that supports families of young children with intellectual or developmental disabilities, and those at risk of intellectual or developmental disabilities by ensuring the continuance, expansion, promotion, and quality of local family support services, including coordination, outreach, and referral. The contract must ensure the expeditious delivery of outreach, information, and referral services to at-risk babies, and require the organization to establish a process with the applicable regional center or centers for referral of the at-risk baby to the regional center when the family resource center suspects that the child may be eligible for Early Start or Lanterman Act services.

Implementation: The Department has contracted with the Family Resource Center Network of California and Support for Families of Children with Disabilities (contractors) to carry out the requirements of section 4435.1. The program is known as the Prevention Resource and Referral Services. The contractors will deliver services through subcontracts with the local Family Resource Centers (FRC). Local FRCs are required to negotiate a Memorandum of Understanding (MOU) with their regional center by September 1, 2011. The MOU will specify the procedures by which the local FRCs shall accept referrals from the regional center and refer children to the regional center who may be exhibiting developmental concerns that necessitate evaluation by the regional center for Early Start or Lanterman Act services. Other MOU components shall include activities to ensure coordination between the FRCs and the regional centers. Regional centers will receive current year's prevention program funds based on their percent to total share of the June, 2011 Prevention Program (Status Code P) caseload. The Department previously notified regional centers not to allocate two percent of their current year Prevention Program funds to the FRCs.

Enhancing Community Integration and Participation—Development of Transportation Access Plans

TBL Section 10: Section 4646.5 was amended to require that the planning process for the IPP also include the development of a transportation access plan for a consumer when all of the following conditions are met:

- The regional center is purchasing private, specialized transportation services or services from a residential, day, or other provider, excluding vouchered service providers, to transport the consumer to and from day or work services;
- The planning team has determined that a consumer's community integration and participation could be safe and enhanced through the use of public transportation services; and,
- The planning team has determined that generic transportation services are available and accessible.

To maximize independence and community integration and participation, the transportation access plan must identify the services and supports necessary to assist the consumer in accessing public transportation and comply with section 4648.35. These services and supports may include, but are not limited to, mobility training services and the use of transportation aides. Regional centers are encouraged to coordinate with local public transportation agencies.

Implementation: *Where applicable, at the time of development, review, or modification of the IPP, regional centers must develop the required transportation access plan. The Department will review the regional centers' implementation of this provision through the Department's IPP monitoring protocol, as part of the Home and Community Based Services Waiver monitoring or other Department monitoring activities.*

Maximize Utilization of Generic Resources—Education Services
TBL Section 13: Section 4648.55 was added, prohibiting a regional center from purchasing day program, vocational education, work services, independent living program, or mobility training and related transportation services for a consumer who is 18 to 22 years of age, if the consumer is eligible for special education and related education services and has not received a diploma or certificate of completion, unless the planning team determines that the consumer's needs cannot be met in the educational system or grants an exemption pursuant to section 4648(d). The exemption language in section 4648(d) states: "An exemption to the provisions of this section may be granted on an individual basis in extraordinary circumstances to permit purchase of a service identified in subdivision (a). An exemption shall be granted through the IPP process and shall be based on a determination that the generic service is not appropriate to meet the consumer's need. The consumer shall be informed of the exemption and the process for obtaining an exemption."

If the planning team determines that generic services can meet the consumer's day, vocational education, work services, independent living, or mobility training and related transportation needs, the regional center is to assist the consumer in accessing those services. To ensure that consumers receive appropriate educational services and an effective transition from services provided by educational agencies to services provided by regional centers, the regional center service coordinator, at the request of the consumer or, where appropriate, the consumer's parent, legal guardian, or conservator, may attend the individualized education program planning team meeting.

For consumers who are 18 to 22 years of age, who have left the public school system, and who are receiving regional center purchased services identified above on or before July 1, 2011, a determination is to be made through the IPP as to whether the return to the educational system can be achieved while meeting the consumer's needs. If the planning team determines that the consumer's needs cannot be met in the educational system, the regional center may continue to purchase the services identified above. If the planning team determines that generic services can meet the consumer's day, vocational education, work services, independent living, or mobility training and related transportation needs, the regional center must assist the consumer in accessing those services.

For consumers who are 18 to 22 years of age, who have left school prior to July 1, 2011, but who are not receiving any of the regional center purchased services identified above the regional center is to use generic education services to meet the consumer's day, vocational education, work services, independent living, or mobility training and related transportation needs if those needs are subsequently identified in the IPP unless the consumer is eligible for an exemption, based on the criteria below. If the planning team determines that generic services can meet the consumer's day, vocational education, work services, independent living, or mobility training and related transportation needs, the regional center is to assist the consumer in accessing those services.

<u>Implementation</u>: The statutory provisions apply to all consumers 18-22 years of age, who are eligible for special education and related education services and have not received a diploma or certificate of completion, even if the regional center is currently purchasing day program, vocational education, work services, independent living program, or mobility training and related transportation services. For consumers 18 to 22 years of age, at the time of development, review, or modification of the IPP, each planning team must determine if generic educational services continue to or can meet a consumer's needs, or if extraordinary circumstances exist, and decide whether or not an exemption on that basis may be granted. Also, when the planning team determines, through the IPP process, that the generic (education) services are not appropriate to meet the consumer's needs, an exemption should be granted.

The Department will review the regional centers' implementation of this provision through the Department's IPP monitoring protocol, as part of the Home and Community Based Services Waiver monitoring or other Department monitoring activities.

<u>Maintaining the Consumer's Home of Choice—Mixed Payment Rates in Residential Facilities with Alternative Residential Model Rates</u>
<u>TBL Section 14</u>: Section 4681.7 was added, stating that effective July 1, 2011, in order to maintain a consumer's preferred living arrangement and adjust the residential services and supports in accordance with changing service needs identified in the IPP, a regional center may enter into a signed written agreement with a residential service provider for a consumer's supervision, training, and support needs to be provided at a lower level of payment than the facility's designated Alternative Residential Model (ARM) service level. The regional center signed written agreement with the provider must ensure all of the following:

- Services provided to other facility residents comply with the applicable service requirements for the facility's approved service level pursuant to section 4681.1 and Title 17 of the California Code of Regulations;
- Protection of the health and safety of each facility resident;

- Identification of the revised services and supports to be provided to the consumer within the ARM rate structure as part of the establishment or revision of an IPP; and,
- Identification of the rate.

If the service needs of a consumer referred to above change such that the consumer requires a higher level of supervision, training, and support, the regional center must adjust the consumer's service level and rate to meet the consumer's changing needs.

A regional center is authorized to enter into a signed written agreement with a residential service provider for a consumer's needed services at a lower level of payment and staffing without adjusting the facility's approved service level. A signed written agreement for a lower level of payment and staffing may only be entered into when a regional center, a consumer, and the facility agree that the facility can safely provide the service and supports needed by the consumer, as identified in the IPP, at the lower level of payment with the payment options within the ARM rate structure and with associated ARM service level requirements.

Implementation: Compliance with this section of TBL will be monitored through the Department's fiscal audits of regional centers and vendors, as appropriate.

Maximizing Resources for Behavioral Services

TBL Section 15: Section 4686.3 was added, requiring the Department to adopt emergency regulations to address the use of paraprofessionals in group practice provider behavioral intervention services and establish a rate. The regulations must establish a rate and the educational or experiential qualifications and professional supervision requirements necessary for the paraprofessional to provide behavioral intervention services.

Implementation: Department staff is currently working on the needed regulations to implement the statutory provisions.

TBL Section 16: Section 4686.31 was added requiring any vendor who provides services as specified below to submit verification to the regional center for services provided to consumers who are under 18 years of age and residing in the family home. The Department must develop and post a standard form for vendors to complete and provide to the family for signature. The form must include, but not be limited to, the name and title of the vendor, the vendor identification number, the name of the consumer, the unique client identifier, the location of the service, the date and start and end times of the service, and a description of the service provided. The form must also include instructions for the parents or legally appointed guardians to contact the regional center service coordinator immediately if they are unable to sign the form.

The vendor must provide the parents or legally appointed guardians of a minor consumer with the Department form to sign. The form must be signed and dated by the parents or legally appointed guardians of a minor consumer and be submitted to the vendor providing services within 30 days of the month in which the services were provided. The vendor must submit the completed forms to the regional center together with the vendor's invoices for the services provided. If the parents or legally appointed guardians of a minor consumer do not submit a form to the vendor, the vendor must notify the regional center.

This requirement only applies to the following types of services: Behavior Analyst, Associate Behavior Analyst, Behavior Management Assistant, Behavior Technician (Paraprofessional), Behavior Management Consultant, Counseling Services, Tutor, Crisis Team-Evaluation and Behavioral Intervention, Tutor Services-Group, Client/Parent Support Behavior Intervention Training, and Parent-Coordinated Home Based Behavior Intervention Program for Autistic Children.

The failure of the parents or legally appointed guardians of a minor consumer to submit a verification of services to the vendor shall not be a basis for terminating or changing behavioral services to the minor consumer. Any changes to behavioral services shall be made by the consumer's planning team pursuant to section 4512.

Implementation: The Department notified regional centers of these new requirements in an email dated July 11, 2011. The required form is available on the Department's homepage at: http://www.dds.ca.gov/Forms/docs/DS5862.pdf in English, Spanish, Tagalog, Russian, Chinese, and Vietnamese. In a case where the vendor notifies the regional center the parent(s) or legally appointed guardian will not sign the form, the regional center should follow-up with the parent/legally appointed guardian to determine if services were delivered prior to making payment.

Also, as noted previously, release of the emergency regulations implementing the new classification of behavior technician (paraprofessional) is pending.

Individual Choice Day Services
TBL Sections 17 and 18: Sections 4688.1 and 4688.2 were amended prohibiting regional centers, effective July 1, 2011, from referring any additional consumers to alternative senior programs and alternative customized programs respectively.

<u>Implementation</u>: *While new service referrals are prohibited, consumers receiving services from these two program types, prior to July 1, may continue to do so.*

<u>TBL Section 19</u>: Section 4688.21 was added, indicating that the Legislature places a high priority on opportunities for adults with developmental disabilities to choose and customize day services to meet their individualized needs; have opportunities to further the development or maintenance of employment and volunteer activities; direct their services; pursue postsecondary education; and increase their ability to lead integrated and inclusive lives. To further these goals, a consumer may choose a tailored day service or vouchered community-based training service, in lieu of any other regional center vendored day program, look-alike day program, supported employment program, or work activity program.

Tailored Day Service

A tailored day service must do both of the following:

- Include an individualized service design, as determined through the IPP and approved by the regional center, that maximizes the consumer's individualized choices and needs. This service design may include, but may not be limited to, fewer days or hours than in the program's approved day program, look-alike day program, supported employment program, or work activity program design; and flexibility in the duration and intensity of services to meet the consumer's individualized needs; and,
- Encourage opportunities to further the development or maintenance of employment, volunteer activities, or pursuit of postsecondary education; maximize consumer direction of the service; and increase the consumer's ability to lead an integrated and inclusive life.

The type and amount of tailored day service must be determined through the IPP process, and the IPP must contain, but not be limited to:

- A detailed description of the consumer's individualized choices and needs and how these choices and needs will be met; and,
- The type and amount of services and staffing needed to meet the consumer's individualized choices and needs, and unique health and safety and other needs.

The staffing requirements set forth in section 55756 of Title 17 of the California Code of Regulations and section 4851 (r) do not apply to a tailored day service. For currently vendored programs wishing to offer a tailored day service option, the regional center shall vendor a tailored day service option upon negotiating a rate and maximum units of service design that includes, but is not limited to:

- A daily or hourly rate and maximum units of service design that does not exceed the equivalent cost of four days per week of the vendor's current rate, if the vendor has a daily day program rate; and,
- A rate and maximum units of service design that does not exceed the equivalent cost of four-fifths of the hours of the vendor's current rate, if the vendor has an hourly rate.

The regional center must ensure that the vendor is capable of complying with, and will comply with, the consumer's IPP, individual choice, and health and safety needs.

For new programs wishing to offer a tailored day service option, the regional center shall vendor a tailored day service option upon negotiating a rate and maximum units of service design. The rate paid to the new vendor shall not exceed four-fifths of the temporary payment rate or the median rate, whichever is applicable.

Effective July 1, 2011, and prior to the time of development, review, or modification of a consumer's IPP, regional centers must provide information about tailored day service to eligible adult consumers. A consumer may request information about tailored day services from the regional center at any time and may request an IPP meeting to secure those services.

<u>Implementation</u>: Entities/persons not currently vendored as day program, look-alike day program, supported employment program or a work activity program seeking vendorization to provide tailored day services, must be vendored under an existing, appropriate service code for day program, look-alike day program, supported employment program or a work activity program. When purchasing tailored day services from a day program, look-alike day program, supported employment program, or work activity program, the regional center shall sub code the expenditure accordingly:

- *TDS – Tailored Day Service "Big Claim" Program Code 00*
- *TDSC – Tailored Day Service CPP Program Code 01 (This sub code should be used by the regional center during the fiscal year in which a consumer moves from a developmental center to the community.)*

Voucher – Community-based Training Service

A vouchered community-based training service is defined as a consumer-directed service that assists the consumer in the development of skills required for community integrated employment or participation in volunteer activities, or both, and the assistance necessary for the consumer to secure employment or volunteer positions or pursue secondary education. Implementation of vouchered community-based training service is contingent upon the approval of the federal Centers for Medicare and Medicaid Services (CMS). Vouchered community-based training service must be provided in natural environments in the community, separate from the consumer's residence. A consumer, parent, or conservator vendored as a vouchered community-based training service must utilize the services of a financial management services (FMS) entity, and the regional center must provide information about available FMS and assist the consumer in selecting a FMS vendor to act as co-employer. A parent or conservator is prohibited from being the direct support worker employed by the vouchered community-based training service vendor.

If the direct support worker is required to transport the consumer, the vouchered community-based training service vendor must verify that the direct support worker can transport the consumer safely and has a valid California driver's license and proof of insurance. The rate for vouchered community-based training service shall not exceed thirteen dollars and forty-seven cents ($13.47) per hour. The rate includes employer-related taxes and all transportation needed to implement the service, except a consumer vendored as a vouchered community-based training service may also be eligible for a regional center-funded bus pass, if appropriate and needed. The rate does not include the cost of the FMS.

Vouchered community-based training services are limited to a maximum of 150 hours per quarter. The services to be provided and the service hours must be documented in the consumer's IPP. A direct support worker of vouchered community-based training service must be an adult who possesses the skill, training, and experience necessary to provide services in accordance with the IPP. Effective July 1, 2011, and prior to the time of development, review, or modification of a consumer's IPP, regional centers must provide information about vouchered community-based training service to eligible adult consumers. A consumer may request information about vouchered community-based training services from the regional center at any time and may request an IPP meeting to secure those services. The type and amount of vouchered community-based training service must be determined through the IPP process. And the IPP must contain, but not be limited to:

- A detailed description of the consumer's individualized choices and needs and how these choices and needs will be met; and,
- The type and amount of services and staffing needed to meet the consumer's individualized choices and unique health and safety and other needs.

<u>Implementation</u>: *This vouchered option is in lieu of any other regional center vendored day program, look-alike day program, supported employment program, or work activity program. As specified in statute the implementation of vouchered community-based training service is contingent upon the approval of CMS. As such, the Department's submitted Home and Community-Based Services Waiver renewal application includes this service option with a requested effective date of October 1, 2011. Additionally, as*

the statute requires use of a FMS, implementing regulations defining and establishing the use of and rates for such services will be released shortly. When implemented upon receipt of CMS approval, the vouchered community-based day training service will also be available to consumers who are not Waiver beneficiaries.

TBL Section 21: Section 4690.6 was added, requiring activity centers, adult development centers, behavior management programs, and other look-alike day programs with a daily rate to bill regional centers for services provided to consumers in terms of half days of service and full days of service. "Full day of service" means a day in which the consumer's attendance is at least 65 percent of the declared and approved program day. "Half day of service" means any day in which the consumer's attendance does not meet the criteria for billing for a full day of service. A regional center may change the length of the declared and approved program day for a specific consumer to meet the needs of that consumer, upon the recommendation of the planning team. The regional center must set forth in the IPP the length of the consumer's program day and the reasons for the change in the length of the declared and approved program day. The definitions above do not apply to vendors of tailored day program service.

Implementation: Regional centers should ensure providers are aware of this provision and maintain appropriate documentation regarding individual consumer attendance. Such documentation should be reviewed during regional center and Department vendor audits. The Department will not be establishing half-day rates; the statute does not change the rate. The statute requires the vendor to bill for one-half of their current rate when a consumer attends the program for 65% or less of the program day.

Supported Living Services: Maximizing Resources

TBL Section 20: Section 4689 was amended stating that for consumers receiving supported living services (SLS) who share a household with one or more adults receiving SLS, efficiencies in the provision of service may be achieved if some tasks can be shared, meaning the tasks can be provided at the same time while still ensuring that each person's individual needs are met. These tasks may only be shared to the extent they are permitted under the Labor Code and related regulations, including, but not limited to, Industrial Welfare Commission Minimum Wage Order No. 15. The planning team, at the time of development, review, or modification of a consumer's IPP, for housemates currently in a supported living arrangement or planning to move together into a supported living arrangement, or for consumers who live with a housemate not receiving SLS who is responsible for the task, shall consider, with input from the service provider, whether any tasks, such as meal preparation and cleanup, menu planning, laundry, shopping, general household tasks, or errands can appropriately be shared. If tasks can be appropriately shared, the regional center shall purchase the prorated share of the activity. Upon a determination of a reduction in services the regional center must inform the consumer of the reason for the determination, and provide a written notice of fair hearing rights pursuant to section 4701.

To ensure that consumers in supported living arrangements receive the appropriate amount and type of supports, an independent assessment is required for consumers currently receiving, or initially entering, supported living who have SLS costs, or have an initial recommendation for service costs, that exceed 125 percent of the annual statewide average cost of SLS, as published by the Department commencing June 30, 2011. Commencing July 1, 2011, regional centers must identify consumers currently receiving SLS, whose annual SLS costs exceed 125 percent of the annual statewide average cost of SLS. The regional center must also identify consumers who have an initial recommendation for SLS costs that exceed 125 percent of the annual statewide average cost of SLS. For these consumers the regional center must arrange for an independent assessment to be completed prior to the next scheduled IPP for consumers currently in a supported living arrangement and within 30 days of identification of consumers with an initial recommendation for services. The independent assessment must be completed by an impartial entity or individual other than the SLS agency providing, or planning to provide, the service and shall be used during IPP meetings to assist the team to determine whether the services provided or recommended are necessary and sufficient and that the most cost-effective methods of service are utilized. Decisions about supported living shall be made by the IPP team.

The independent assessment process must adhere to all of the following:

- SLS providers must conduct comprehensive assessments for the purpose of getting to know the consumer they will be supporting and developing a support plan congruent with the choices and needs of the individual and consistent with the principles of supported living set forth in the Lanterman Act and Title 17. The independent assessment is not intended to take the place of or repeat the service provider's comprehensive assessment. The purpose of the independent assessment is to provide an additional look at whether the SLS being provided, or being proposed for a person initially entering supported living, are necessary, sufficient, or cost-effective to meet the person's choices and needs, as determined by the comprehensive assessment and the planning team. The independent needs assessment may include, but is not limited to, use of natural and generic support, technology that provides support otherwise necessary through direct staffing hours, shared housing, support alternatives, learning methods, lifting and transferring, bathroom, grooming, meals, communication, transportation, mobility, emergency procedures, medication management, household responsibilities, personal needs, interpersonal relationships, and behavioral, medical, and overnight supports.

- A consumer shall not be excluded from SLS based on an independent assessment.
- The entity or individual conducting independent assessments shall not be an employee of a regional center or the consumer's service provider. Current supported living providers may conduct independent assessments for consumers being supported, or about to be supported, by other providers. However, a provider who conducts an independent assessment may not provide direct services to a consumer it has assessed for a period of one year. Each regional center must publicly identify the entities and individuals it will use to conduct independent assessments. Regional centers must ensure there are sufficient independent assessors so that assessments can be provided when required without undue delay.
- Initial entry into supported living may not be delayed for more than 30 days following the determination to request an independent assessment due to the need for an independent assessment. If the independent assessment cannot be conducted within that time period, the individual may move into supported living with the amount of supports recommended by the service provider's comprehensive assessment and an additional IPP to consider the results of the independent assessment must be conducted when that assessment becomes available, if necessary. For individuals currently in a supported living arrangement, supports must continue at the same level while the independent assessment is being conducted.
- Independent assessors shall meet all of the following qualifications:
    - Have a demonstrated understanding of the foundation of supported living as a service that assists an individual to live in his or her own home with supports as needed to be part of their community and of the principles and operational requirements of supported living set forth in the Lanterman Act and Title 17;
    - Have a demonstrated understanding of the IPP process and the legal rights of people with developmental disabilities in California; and,
    - Have experience with the provision of SLS in California.
- The Department must establish a rate of payment for an independent assessment.
- The planning team must consider the independent assessment along with the provider's assessment, if available, and any other relevant information in determining whether there should be any adjustment to the amount or type of supports currently being received by individuals in supported living arrangements or recommended for individuals initially entering supported living arrangements. Any decisions to reduce supports shall not be applied retroactively.

- A consumer shall be reassessed every three years in conjunction with the consumer's IPP review to determine whether all services are necessary and sufficient and to ensure that the most cost-effective methods of service are being utilized.
- Individuals who are moving to a supported living arrangement or have moved to a supported living arrangement from a developmental center or state-operated community facility are not required to have an additional assessment during the first 12 months following placement.
- Upon a determination of a reduction in service, the regional center must inform the consumer of the reason for the determination, and provide a written notice of fair hearing rights pursuant to section 4701.
- Nothing precludes the completion of an independent assessment for other purposes.

Implementation: The purpose of the independent assessment is to provide an additional look at whether the SLS being provided to, or proposed for, the consumer are necessary, sufficient, or cost-effective to meet the consumer's choices and needs. Commencing July 1, 2011, regional centers must identify consumers currently receiving SLS, whose annual SLS costs exceed 125 percent of the annual statewide average cost of SLS. The regional center must also identify consumers who have an initial recommendation for SLS costs that exceed 125 percent of the annual statewide average cost of SLS. For these consumers the regional center must arrange for an independent assessment to be completed prior to the next scheduled IPP for consumers currently in a supported living arrangement and within 30 days of identification of consumers with an initial recommendation for services. As required by law, the Department has published on its homepage the annual statewide average cost of SLS, and 125 percent of the annual statewide average cost of SLS. Commencing July 1, 2011, the annual average cost of SLS is $44,196 and 125 percent of the average annual cost of SLS is $55,245.

Regional centers shall use only one of the following service codes when purchasing an independent assessment: 1) Supported Living Services, Service Code 896, if the assessor is a current SLS vendor, or 2) Independent Living Specialist, Service Code Independent Living Specialist - Service Code 635. Use of any other service code (Ex. 056) previously used for independent assessments must be discontinued.

When purchasing the independent assessment under either of these service codes, the purchase should additionally be sub coded as:

- *INAS – Independent Assessment "Big Claim" Program Code 00*

The rate for an independent assessment under both service code 896 and 635 can not exceed $50.00 an hour nor $1,000 in total.

Annual Family Program Fee

TBL Section 22: Section 4785 was added, stating that effective July 1, 2011, regional centers must assess an annual family program fee, as described below, from parents whose adjusted gross family income is at or above 400 percent of the federal poverty level based upon family size and who have a child to whom all of the following apply:

- The child has a developmental disability or is eligible for Early Start services;
- The child is less than 18 years of age;
- The child lives with his or her parent;
- The child or family receives services beyond eligibility determination, needs assessment, and service coordination; and,
- The child does not receive services through the Medi-Cal program.

An annual family program fee shall not be assessed or collected if the child receives only respite, day care, or camping services from the regional center, and a cost for participation is assessed to the parents under the Family Cost Participation Program. The annual family program fee shall be initially assessed by a regional center at the time of the development, scheduled review, or modification of the IPP or IFSP, but no later than June 30, 2012, and annually thereafter. Application of the annual family program fee to children zero through two years of age, is contingent upon necessary approval by the United States Department of Education.

The annual family program fee for parents described above shall be two hundred dollars ($200) per family, regardless of the number of children in the family with developmental disabilities or who are eligible for services under Early Start. Parents who demonstrate to the regional center that their adjusted gross family income is less than 800 percent of the federal poverty level shall be required to pay an annual family program fee of one hundred fifty dollars ($150) per family, regardless of the number of children in the family with developmental disabilities or who are eligible for Early Start.

At the time of intake or at the time of development, scheduled review, or modification of a consumer's IPP or IFSP, but no later than June 30, 2012, the regional center must provide to parents described above a form and an envelope for the mailing of the annual family program fee to the Department. The form, which must include the name of the children in the family currently being served by a regional center and their unique client identifiers, must be sent, with the family's annual program fee, to the Department. The Department will notify each regional center at least quarterly of the annual family program fees collected.

The regional center must, within 30 days after notification from the Department, provide a written notification to the parents from whom the Department has not received the annual family program fees. Regional centers must notify the Department if a family receiving notification has failed to pay its annual family program fees based on the subsequent notice. For these families, the Department will pursue collection pursuant to the Accounts Receivable Management Act (Chapter 4.3 (commencing with section 16580) of Part 2 of Division 4 of Title 2 of the Gov. Code).

A regional center may grant an exemption to the assessment of an annual family program fee if the parents demonstrate any of the following:

- That the exemption is necessary to maintain the child in the family home;
- The existence of an extraordinary event that impacts the parents' ability to pay the fee or the parents' ability to meet the care and supervision needs of the child; or,
- The existence of a catastrophic loss that temporarily limits the ability of the parents to pay and creates a direct economic impact on the family. Catastrophic loss may include, but is not limited to, natural disasters, accidents involving, or major injuries to, an immediate family member, and extraordinary medical expenses.

Services may not be delayed or denied for a consumer or child based upon the lack of payment of the annual family program fee. "Parents" means the parents, whether natural, adoptive, or both, of a child with developmental disabilities under 18 years of age. Parents described above are jointly and severally responsible for the annual family program fee, unless a court order directs otherwise.

"Total adjusted gross family income" means income acquired, earned, or received by parents as payment for labor or services, support, gift, or inheritance, or parents' return on investments. It also includes the community property interest of a parent in the gross adjusted income of a stepparent. The total adjusted gross family income shall be determined by adding the gross income of both parents, regardless of whether they are divorced or legally separated, unless a court order directs otherwise, or unless the custodial parent certifies in writing that income information from the noncustodial parent cannot be obtained from the noncustodial parent and in this circumstance only the income of the custodial parent shall be used to determine the annual family program fee.

This new law sunsets on June 30, 2013, and as of January 1, 2014, is repealed, unless a later enacted statute, that becomes operative on or before June 30, 2013, deletes or extends the dates on which it becomes inoperative and is repealed.

Implementation: The Department will be sending out implementation information under separate cover. The Department will provide regional centers with the standard forms to be provided to families, and related instructions; information on the federal poverty level applicable for 2011; and, the interim process for exchange of information between regional centers and the Department.

4.25 Percent Payment Reduction

TBL Section 24: Section 10 of Chapter 13 of the Third Extraordinary Session of the Statutes of 2009, as amended by Section 16 of Chapter 9 of the Statutes of 2011, was amended providing that to implement changes in the level of funding for regional center purchase of services, regional centers must reduce payments for services and supports provided pursuant to Title 14 (commencing with section 95000) of the Gov. Code and Division 4.1 (commencing with section 4400) and Division 4.5 (commencing with section 4500). From February 1, 2009, to June 30, 2010, regional centers were required to reduce all payments for these services and supports paid from purchase of services funds for services delivered on or after February 1, 2009, by 3 percent, and from July 1, 2010, to June 30, 2012, by 4.25 percent, unless the regional center demonstrates that a nonreduced payment is necessary to protect the health and safety of the individual for whom the services and supports are proposed to be purchased, and the Department has granted prior written approval.

Regional centers shall not reduce payments for:

- Supported employment services with rates set by section 4860;
- Services with "usual and customary" rates established pursuant to Title 17 section 57210, except as provided below; and,
- Payments to offset reductions in Supplemental Security Income/State Supplementary Payment (SSI/SSP) benefits for consumers receiving supported and independent living services.

The exemption provided for above for services with a usual and customary rate shall not apply to payments for any of the following services:

- Crisis and behavioral services provided by a nationally certified or state-licensed professional, consistent with the professional's scope of practice, as set forth in the Business and Professions Code.
- Services of group practices providing behavioral intervention.
- Parent-coordinator home-based behavioral intervention for children with autism.
- Individual or family training.

- Registered nurse services.
- Therapy services, including physical, speech, occupational, recreational, and music therapy.
- Audiology services.
- Independent living specialist services.
- Translator and interpreter services.
- Mobility training, socialization training, or community integration training services.
- Community activities support, program support, or parenting support services.
- Personal assistance services.
- Tutoring services.
- Creative arts services.
- Early start specialized therapeutic services.

Implementation: If the regional center has accepted a usual and customary rate as the rate of payment for any of the providers of services reflected in the list directly above, the regional center, effective July 1, 2011, must apply the 4.25 percent payment reduction.

TBL Section 23: Section 7502.5 was amended specifying that the total number of developmental center residents in the secure treatment facility at Porterville Developmental Center (PDC), including those residents receiving services in the PDC transition treatment program, shall not exceed 230. The Department shall not admit any persons into the secure treatment facility at PDC until the population of the secure treatment facility is less than 230 persons. To maximize federal financial participation, the Department shall not admit any more than 104 people who are ineligible to participate in programs certified for federal financial participation into the secure treatment facility at PDC.

If you have any questions regarding this correspondence, please contact Brian Winfield, at (916) 654-1569.

Sincerely,

ORIGINAL SIGNED BY BRIAN WINFIELD FOR

RITA WALKER
Deputy Director
Community Operations Division

cc: Robert Baldo, ARCA
Mark Hutchinson, DDS

Tri-Counties Regional Center
SAN LUIS OBISPO • SANTA BARBARA • VENTURA

Attachment #3

F/ 805.884.7229
www.tri-counties.org

September, 2011

To Our Families and Persons Served by Tri-Counties Regional Center:

As you are aware, the State of California fiscal condition has continued to deteriorate. As a result, we are faced with significant challenges in ensuring that community based developmental services are preserved in our three counties. Every area of state government has been impacted by this fiscal crisis, including services provided by the regional centers. In Fiscal Year (FY) 2010/2011, the projected state budget deficit grew to $25 billion. For FY 2011/2012, the Legislature and the Governor were required to make deep and painful budget reductions to many essential programs and services, including another cut to developmental services that includes the regional centers – this time in the amount of $591 million.

Trailer Bill SB 74 (Chapter 9, Statutes of 2011) was enacted March 24, 2011, which includes several cost containment measures that directly affect regional centers or the developmental services system. Subsequently, the FY 2011/2012 Budget was signed on June 30, 2011, and additional cost containment measures in Trailer Bill AB 104 took effect July 1, 2011.

The $591 million reduction to the developmental services system budget will affect the services received by many persons and their families served by Tri-Counties Regional Center (TCRC) and the providers in the community that provide these services. For any required modification to a person's Individualized Family Service Plan (IFSP) or Individual Program Plan (IPP), as a result of the changes in the law, the regional center must provide the appropriate written notification, pursuant to Government Code section 95007, or Welfare and Institutions Code section 4700. **If your services are going to be affected, you will receive a letter from your TCRC Service Coordinator outlining the changes that will need to occur. This letter will also provide information about how to use a person centered planning process to evaluate your needs per your IFSP or IPP, your appeal rights under the law if you and your Service Coordinator are not able to reach agreement, and information about any "exemptions" that are available based on extraordinary circumstances or extraordinary events as stated in the law.**

Outlined below is a high level summary of the changes in the law impacting services provided by the regional center. **You may also access further detailed information through the Department of Developmental Services (DDS) web site at www.dds.ca.gov. The home page on the TCRC web site at www.tri-counties.org will direct you to links for further information as well.**

General Standards

- **Composition of Regional Center Boards:** Regional center boards, each year, must submit to the Department of Developmental Services (DDS) detailed documentation, as determined by DDS, demonstrating that the composition of the board is in compliance with Welfare & Institutions Code (WIC) 4622.
- **Board Approval of Contracts:** Regional center boards must adopt and maintain a written policy requiring the board to review and approve certain regional center contracts of $250,000 or more before entering into the contract.
- **Conflict of Interest:** DDS is required to develop a standard conflict of interest (COI) reporting statement to be completed by each regional center governing board member and employee, as specified in law; regional centers must develop a COI policy, submit this policy to DDS, and post it on its website. DDS is required to monitor and ensure the regional centers' compliance with the laws governing COI.
- **Transparency and Access to Public Information:** The regional center board must adopt, maintain, and post on its website a board approved policy regarding transparency and access to public information. Additionally, certain information is specifically required to be posted on regional center websites, and certain information shall be made available to the public upon request.

- **Administrative Cost Caps – Regional Centers:** Requires that all contracts between DDS and the regional centers require that not more than 15 percent of all funds appropriated through the regional center's operations budget be spent on administrative costs.
- **Regional Center Independent Audits:** For the 2011-12 fiscal year and subsequent years, the independent fiscal audit of regional centers, pursuant to law, shall not be completed by the same accounting firm more than five times in every 10 years.
- **Regional Center Staffing:** The date that specific service coordinator caseload ratios do not apply has been extended. The caseload ratio of 1:66 is lifted until June 30, 2012, for persons who have not moved from the developmental centers to the community since April 14, 1993, who are 3 years of age or older, and who are not enrolled in the Home and Community-Based Services Waiver Program.
- **Third Party Liability:** Grants regional centers and DDS authority to pursue third party recovery of the reasonable value of the service provided by the regional center, including health insurance, health care services and carriers who may be liable for an injury or wrongful death.

Prevention Services

Prevention Resource and Referral Services: Regional centers will continue serving Prevention Program babies, defined as being at-risk, until the earliest of: the child reaches age 36 months; the regional center has determined the child is eligible for Early Start services; or June 30, 2012. Effective July, 1, 2011, regional centers may no longer refer at-risk babies to the prior Prevention Program but instead refer at-risk babies to the Family Resource Centers. DDS shall contract with an organization representing one or more family resource centers to provide outreach, information, and referral services to generic agencies for children under 36 months of age who are not eligible for Early Start or Lanterman Act services.

Best Practice Service Provisions

- **Mixed Payment Rates in Residential Facilities:** In order to maintain a person's preferred living arrangement and adjust the residential services and supports in accordance with changing service needs identified in the IPP, a regional center may enter into a signed written agreement with a residential service provider for a person's supervision, training and support needs to be provided at a lower level of payment than the facility's designated Alternative Residential Model (ARM) service level.
- **Maximize Utilization of Generic Resources – Education Services:** Regional centers are now prohibited from purchasing day program, vocational education, work services, independent living program, or mobility training and related transportation services for a person who is 18 to 22 years of age, if the person is eligible for special education and related education services and has not received a diploma or certificate of completion. The planning team may determine that the person's needs cannot be met in the educational system or grant an exemption in extraordinary circumstances pursuant to law.
- **Maximize Resources – Supported Living Services (SLS):** For persons receiving supported living services (SLS) who share a household with one or more adults receiving SLS, efficiencies in the provision of service may be achieved if some tasks can be shared, meaning the tasks can be provided at the same time while still ensuring that each person's individual needs are met. To ensure that persons in supported living arrangements receive the appropriate amount and type of supports, an independent assessment is required for persons currently receiving, or initially entering, supported living who have SLS costs, or have an initial recommendation for service costs, that exceed 125 percent of the annual statewide average cost of SLS, as published by DDS commencing June 30, 2011.
- **Maximize Resources – Behavioral Services:** DDS is required to adopt emergency regulations to address the use of paraprofessionals in group practice provider behavioral intervention services and establish a rate. Any vendor who provides services as specified in law is required to submit verification to the regional center for services provided to persons who are under 18 years of age and residing in the family home.
- **Individual Choice Day Services:** Regional centers are prohibited from referring any additional persons to alternative senior programs and alternative customized programs respectively. A person may choose a tailored day service or vouchered community-based training service, in lieu of any other regional center vendored day program, look-alike day program, supported employment program, or work activity program.

A tailored day service must:

- Include an individualized service design, as determined through the IPP and approved by the regional center, that maximizes the person's individualized choices and needs; and,
- Encourage opportunities to further the development or maintenance of employment, volunteer activities, or pursuit of postsecondary education; maximize person's direction of the service; and increase the person's ability to lead an integrated and inclusive life. It must not exceed the equivalent cost of four-fifths of the vendor's current daily or hourly rate.

A vouchered community-based training service is defined as a person-directed service that assists the person in the development of skills required for community integrated employment or participation in volunteer activities, or both, and the assistance necessary for the person to secure employment or volunteer positions or purse secondary education. Implementation of vouchered community-based training service is contingent upon the approval of the federal Centers for Medicare and Medicaid Services (CMS). Vouchered community-based training service must be provided in natural environments in the community, separate from the person's residence. The person must utilize the services of a financial management services (FMS) entity. These vouchered services are limited to a maximum of 150 hours per quarter.

- **Transportation Access Plans:** The planning process for the IPP shall include the development of a transportation access plan when the regional center purchases private, specialized transportation services from a residential, day, or other provider, excluding vouchered service provider, to transport the person to and from day or work services; a person's community integration and participation could be safe and enhanced through the use of public transportation; and generic transportation services are available and accessible.

Family Related Provisions

Annual Family Program Fee: Effective July 1, 2011, regional centers must assess an annual family program fee from parents whose adjusted gross family income is at or above 400 percent of the federal poverty level based upon family size and who have a child to whom all of the following apply:

- The child has a developmental disability or is eligible for Early Start Services;
- The child is less than 18 years of age;
- The child lives with his or her parent;
- The child or family receives services beyond eligibility determination, needs assessment, and service coordination; and,
- The child does not receive services through the Medi-Cal program.

An annual family program fee shall not be assessed or collected if the child receives only respite, day care, or camping services from the regional center, and a cost for participation is assessed to the parents under the Family Cost Participation Program. The annual family program fee shall be initially assessed at the time of review of the IPP or IFSP, but not later than June 30, 2012.

Benefit Cards: Parents, legal guardians, or conservators of persons served by the regional center are required to provide copies to the regional center of any health benefit cards under which the person served is eligible to receive health benefits, including but not limited to, private health insurance, a health care service plan, Medi-Cal, Medicare, and TRICARE. Such benefit cards shall be presented at the time of intake or assessment, and at the time of subsequent development, scheduled reviews or modification of an IPP or IFSP.

Service Provider Related Provisions

- **15% Administrative Cost Caps:** All regional center contracts or agreements with service providers in which rates are determined through negotiations between the regional center and the service provider are to expressly require that not more than 15 percent of regional center funds be spent on administrative costs.
- **Medicaid Integrity:** Compliance with federal disclosure requirements is required to preserve federal funding of POS services. DDS shall adopt emergency regulations to amend provider and vendor eligibility and disclosure criteria to meet federal financial participation requirements to include information about entity ownership and control, contracting interests, and criminal convictions or civil proceedings involving fraud or abuse in any government program, or abuse or neglect of an elder, dependent adult, or child. Also, DDS shall adopt emergency regulations to meet federal requirements applicable to vouchered services.

- **Provider Audits:** Any entity receiving payments from one or more regional centers is required to contract with an independent accounting firm for an audit or review of its financial statements subject to certain conditions in law. Such entities must provide copies of the independent audit or independent review report and accompanying management letters to the vendoring regional center within 30 days after completion. Regional centers must review and require resolution by the entity for issues identified in the report that have an impact on regional center services. Regional centers are required to report to DDS and take appropriate action, up to termination of vendorization, for lack of adequate resolution of issues.
- **Service Provider Relief:** The sunset date is extended until June 30, 2012, for the provision that regional centers may temporarily modify personnel requirements, functions, or qualifications, or staff training requirements for certain providers, whose payments are reduced by 4.25% pursuant to law.
- **4.25% Payment Reduction:** The sunset date is extended until June 30, 2012, for the requirement for regional centers to reduce payments for services and supports, paid from purchase of services funds, pursuant to law, by 4.25%.
- **Vendor Electronic Billing**: Effective July 1, 2011, regional centers shall begin transitioning all providers, vendors and contracted providers of services provided or purchased through a regional center, except vendors whose services are paid for by vouchers, to the e-Billing system web application provided by DDS. All such vendors must submit all billings electronically for services provided on or after July 1, 2012.
- **Rate Equity & Negotiated Rate Control:** Expands the types of vendors who are subject to the 4.25% payment reduction who were previously exempted under the "usual and customary" rate exception.
- **Day Services – Half Day Billings:** Activity centers, adult development centers, behavior management programs, and other look-alike day programs with a daily rate are required to bill regional centers for services provided to persons in terms of half days of service and full days of service.
- **Statewide Collaboration for Administrative Actions:** The Departments of Social Services and Public Health are required to notify DDS of any administrative action initiated against a licensee serving persons with developmental disabilities.

Also, the regional center operations budget that pays for direct services and supports provided by regional centers such as service coordination, clinical services, fiscal services and other direct supports has been significantly reduced. Service Coordinator caseload ratios are high and will continue to increase. Numerous regional center positions are frozen. While we will do our best to attempt to maintain our service commitment to you, we also ask for your continued patience during this difficult time.

Finally, in addition to all of these changes, the currently enacted California State budget for FY 2011-12 counts on $4 billion in additional revenues that are projected to be received by the state. The budget contains "trigger cuts" that would automatically be implemented in January, 2012, in the event that some or all of the $4 billion in additional revenues do not materialize. The "trigger cuts" are tiered, based on the actual amount of revenue received, hence additional mid-year reductions up to $100 million to the developmental services budget are possible. It is not clear at this time how such additional reductions would be implemented.

These are unprecedented times and we face unprecedented challenges. Working together in partnership, we must continue to advocate for our community based developmental services, as well as manage the implementation of these changes in the law with the least impact to persons receiving services as possible. For ongoing updates to the budget situation, please go to our TCRC website home page, **www.tri-counties.org**, and access **"Budget Watch"**.

Sincerely,

Omar Noorzad

Omar Noorzad, Ph.D.
Executive Director

c: Bob Cobbs, President, Tri-Counties Association for the Developmentally Disabled, Inc. Board of Directors
TCRC Service Providers
TCRC Staff

TRI-COUNTIES REGIONAL CENTER – SB74 & AB104 CHAPTERED TRAILER BILL LANGUAGE **Attachment #4**

UPDATED November 1, 2011

Bill Section	Main Topic / *Description*	DDS Memo On Implementation	STATUS	NEXT STEPS
(SB74) 1	**Development of Best Practices (See AB 104 Sections below)** *Purchase of Services & Operations*	Enactment of these proposals will occur through adoption of the State Budget for FY 2011-12. DDS will send additional correspondence once the State Budget has been enacted.	TBL Implementation Memo received from DDS on 8/14/11.	See AB104 items.
(SB74) 2	**Proof that composition of RC board complies with W&I code** *By August 15 of each year, the governing board of each RC shall submit to DDS detailed documentation, as determined by DDS, demonstrating that the composition of the board is in compliance with Section 4622 WIC*	DDS will soon provide RCs with a format for reporting required info.	DDS is requesting completion of the survey that was sent to RCs and mail / email to DDS by August 15th with a copy of the current board by-laws.	Report completed and submitted to DDS on 8/11/11 with the bylaws.
(SB74) 3	**Board approval of contracts over $250,000** *The governing body of each RC shall adopt and maintain a written policy requiring the board to review and approve any RC contract of $250,000 before entering into the contract.* *No RC contract of $250,000 or more shall be valid unless approved by the governing board of the RC in compliance with its written policy.*	The statutory requirement for board review is applicable to contracts of $250K or more, entered into as of the effective date of the TBL, i.e., March 24, 2011. The law is applicable to OPS and POS contracts, for or over $250K, whether multi-year or not.	Board approved policy July 8, 2011. Two contracts were approved at the October Board Meeting.	TCRC staff will revise the template for Board review of contracts. To be discussed at the November Administrative Committee.
(SB74) 4	**RC Conflict of Interest Policies** *Conflict of Interest-DDS shall develop and publish a standard COI reporting statement. The statement shall be completed by each RC governing board member and each RC employee specified in regulations.*	RCs should assure they are taking action to comply with TBL and timeframes specified. Training for both employees and board members is recommended. DDS is developing the required COI reporting statement and it will soon be published.	Awaiting COI statement from DDS. DDS approved contract changes with new timelines - 60 days to comply after receipt of COI statement from DDS.	Revisit this issue after COI statement and procedures are received from DDS.

(SB74) 5	**Submission of RC Conflict of Interest Policies to DDS** *Each RC shall submit a COI policy to DDS* *Each RC shall post COI policy on its website*		Board approved revised policy on July 8, 2011. Board approved policy is posted on TCRC's website. Policy submitted to DDS.	Revisions to COI policy will be made as needed and re-submitted to DDS and re-posted on TCRC's website.
(SB74) 6	**Conflict of Interest Policy regulations - DDS** *DDS shall monitor and ensure the RCs' compliance with COI regulations.*	Emergency regulations are underdevelopment and will be promulgated shortly. DDS will monitor compliance through its fiscal audits and ongoing monitoring of RCs.	No action required by TCRC.	
(SB74) 7	**RC Transparency & Access to Public Information** *RC shall adopt, maintain, and post on its Internet Web site a board-approved policy regarding transparency and access to public information.* *Each RC shall include on its Internet Web site, as expeditiously as possible, at least all of the following:* [see TBL]	If not already posted, RCs must take immediate action to post the above info on the RCs Internet home page. This requirement applies to the most current documents in each category and future applicable documents. The law requires the names, types of service, and contact info of **<u>all</u>** vendors, except consumers or family members.	Board approved policy July 8, 2011. Board approved policy and required documents are posted on TCRC's website.	Required documents will be re-posted on TCRC's website when they become updated.
(SB74) 8	**15% Administrative Costs Cap – Service Providers** *All RC contracts/agreements with service providers in which rates are determined through negotiations between the RC and the provider shall expressly require that not more than 15 percent of RC funds be spent on administrative costs.*	All contracts or agreements with vendors with a negotiated rate must be amended to expressly require that not more than 15% of RC funds be spent on admin costs. This law is applicable to all negotiated rates and providers of such services, not just prospectively. Should it be determined that the negotiated rate is comprised of more than 15% admin costs, adjustments must be made to comport with law.	Letter, cost statement and instructions were sent to applicable providers. 80 statements were received back and 159 are outstanding. Applicable contracts have been amended.	Review cost statements and complete contract amendments. A follow up letter will be sent to providers who have not submitted their statements. Develop standard process to ensure adequate documentation in vendor files for future audits.
(SB74)	**15% Administrative Costs Cap –**	This requirement became effective	Re-classification of employees and	Periodic review.

8	**Regional Centers** *All contracts between DDS and the RCs shall require that not more than 15 percent of OPS budget funds be spent on administrative costs.*	March 24, 2011. DDS will monitor compliance through its fiscal audits of RCs. The addition of the required language in the DDS contracts with RCs is pending upcoming contract negotiations with ARCA.	expenses occurred going back to 3/24/11. Expenses are being tracked and coded accordingly for FY 11/12 monthly as part of the financial statement process.	
(SB74) 9	**RC Independent Audits by CPA** *For the 2011-12 fiscal year and subsequent years, the [RC annual CPA] audit shall not be completed by the same accounting firm more than five times in every 10 years.*	For the FY 2011-12 audit, the RC may not use an independent accounting firm that has been used five or more times in the previous ten years.	Obtained a legal opinion regarding discrepancy between the law and DDS implementation memo. No change in CPA auditor for FY 10/11 audit	Collect information from other RCs on RFP for CPA services.
(SB74) 10	**RC Staffing – Continuation of no limit on non-HCBS waiver caseloads** *Continues the unlimited caseload ratio for persons who are not on the HCBS Waiver, not in Early Start, nor were placed from a DC.*		Continue current processes.	
(SB74) 11	**Providers – Medicaid Reporting Requirements** *Requires RCs to collect specific information regarding vendors to ensure eligibility for HCBS Waiver reimbursement.*	Emergency regs are under development and will be promulgated shortly. Pursuant to the statutory language effective March 24, 2011, RCs should not vendor any new applicants who are listed on either of the Internet Websites below: -State's Suspended and Ineligible Provider List -Federal Office of Inspector General	Implemented DDS requirements 6/20/11. Awaiting on DDS to adopt emergency regulations.	Revisit this issue after emergency regulations are received from DDS.
(SB74) 12	**Reporting by DSS & DPH to DDS – Administrative Actions – Licenses homes and programs**		No action required by TCRC at this time unless DDS notifies RCs.	

	Requires DSS and DPH to notify DDS of certain situations.			
(SB74) 13	**Providers Audits – Providers receiving more than $250,000 per year** *When the amount received from the RC or RCs during the entity's fiscal year is more than or equal to $250,000 but less than $500,000, the entity shall obtain an independent audit or independent review.* *When the amount received from the RC or RCs during the entity's fiscal year is equal to or more than $500,000, the entity shall obtain an independent audit.*	DDS will be sending a letter to vendored entities/ providers, based on UFS data run, that are subject to this law. The letter will be posted on DDS' homepage and RCs are encouraged to either post the letter on their websites or link to it. RCs may have other communication avenues with providers through which they want to additionally disseminate this info....MORE – [SEE DDS MEMO]...	Received a copy of the letter that was sent to providers from DDS along with data on payments over $250,000 made to vendors statewide by tax ID number. TCRC sent letter to applicable vendors along with a form to complete requesting additional information. 77 forms returned out of approximately 100. Internal procedures and tracking systems are being set up. Responding to questions by vendors. Follow up with providers is occurring.	Continue to follow up with providers who have not sent in audit data forms. Input data information into tracking report and file documents when received.
(SB74) 14	**Third Party Liability** *Allows DDS and RCs to seek reimbursement for costs of services (injury to or death of a person served) and get information from health insurance plans*	Effective March 24, 2011, RCs and DDS have the authority to pursue third party recovery as specified in statute. Additional info regarding this change in law and implementation will be sent out shortly to RCs under separate cover.	Waiting for more info from DDS.	
(SB74) 15	**Continuation of Provider Workload Relief** *Continues the provisions for provider workload relief originally enacted with the implementation of the 3%/4.25% payment reduction.*		No further action required.	

(SB74) 16	**Continuation of 4.25% Payment Reduction**		TCRC has implemented.	Information will be included in new vendor packet, on rate agreement form and in contract.
(AB104) 2 and 7	**Vendor Electronic Billing** *Requires regional centers to begin transitioning providers to e-billing. All providers must submit invoices using e-billing for services provided on or after July 1, 2012, with some exceptions.*	RCs are encouraged to develop and share with their community a timeline for, and immediately begin, transitioning vendors to e-billing over the course of the fiscal year.	Accounting staff are transitioning providers who are not already using e-billing. Forms are being sent out in the new vendor packet for e-billing, vendor portal, and direct deposit.	Data runs to occur periodically throughout FY 11/12 to monitor progress. Internal procedures and tracking systems are being set up.
(AB104) 24	**4.25% Payment Reduction** *Payment reduction applies to certain services with usual & customary (U&C) rates that were previously exempt.*	If the RC has accepted a U&C rate as the rate of payment for any of the providers of services reflected in the list [see memo], the RC, effective July 1, 2011, must apply the 4.25% reduction.	Letter was sent to applicable providers on 8/8/11. Rates have been reduced on rate table effective with July billings.	
(AB104) 22	**Annual Family Program Fee** *RCs must assess an annual family program fee from parents whose adjusted gross family income is at or above 400% of the federal poverty level based upon family size and who have a child to who certain condition apply…*	DDS will be sending out implementation information under separate cover. DDS will provide RCs with the standard forms to be provided to families, and related instructions; information on the federal poverty level applicable for 2011; and, the interim process for exchange of information between RCs and DDS.	Materials were received from DDS on 8/22/11. Training materials have been completed. Envelopes have been ordered and received. Training for staff will be completed 11/2.	Packets ready to distribute week of 10/31. On-line training reference tool and FAQ's being developed and finalized.
(AB104) 20	**Maintaining Person's Home of Choice - Mixed payment rates in residential facilities with ARM rates** *…a RC may enter into a signed written agreement with a residential service*	Compliance with this section of TBL will be monitored through the DDS fiscal audits of RCs and vendors, as appropriate.	Requests to be made by either the provider or the SC. Resource Developers will review and process these requests.	

	provider for a person's supervision, training, and support needs to be provided at a lower level of payment than the facility's designated ARM service level...			
(AB104) 13	**Maximize Utilization of Generic Resources - Education Services** *Prohibits a RC from purchasing day program, vocational education, work services, independent living program, or mobility training and related transportation services for a person who is 18 to 22 years of age, if the person is eligible for special education and related education services and has not received a diploma or certificate of completion...*	The statutory provisions apply to all persons 18-22 years of age, who are eligible for special education and related education services and have not received a diploma or certificate of completion, even if the RC is currently purchasing day program, vocational education, work services, independent living program, or mobility training and related transportation services. For persons 18-22 years of age, at the time of development, review, or modification of the IPP, each PT must determine if generic education services continue to or can meet a person's needs, or if extraordinary circumstances exist, and decide whether or not an exemption on that basis may be granted. Also, when the PT determines, though the IPP process, that the generic (education) services are not appropriate to meet the person's needs, an exemption should be granted. DDS will review the RCs' implementation of this provision through the DDS' IPP monitoring protocol, as part of the HCBSW monitoring or other DDS monitoring activities.	MOU has been in place. Communication is occurring with families and schools.	Training is being developed and will be provided to SCs in November. Review service policy and revise as needed.
(AB104) 20	**Supported Living Services - Maximize Resources**	Commencing July 1, 2011, RCs must identify persons currently receiving SLS, whose annual SLS costs exceed 12% of	RFP for independent assessors was posted. Proposals have been received and reviewed.	Independent assessors will be vendored by early November.

	For persons receiving SLS who share a household with one or more adults receiving SLS, efficiencies in the provision of service may be achieved if some tasks can be shared. *An independent assessment is required for persons currently receiving, or initially entering, SL who have SLS costs, or have an initial recommendation for service costs, that exceed 125% of the annual statewide average cost of SLS, as published by DDS commencing June 30, 2011.*	the annual statewide cost of SLS. RC must also identify persons who have an initial recommendation for SLS costs that exceed 125%...the RC must arrange for an independent assessment to be completed prior to the next scheduled IPP for persons currently in a SLA and within 30 days of identification of persons with an initial recommendation of services...DDS published on its homepage the statewide annual average cost of SLS, and 125% of the annual statewide average cost of SLS. RCs shall use <u>only</u> one of the following service codes when purchasing an independent assessment: 896, if the assessor is a current SLS vendor, or 635 – Independent Living Specialist. When purchasing the independent assessment under either of these service codes, the purchase should additionally be sub-coded as INAS – "Big Claim" Program Code 00. The rate for an independent assessment under both service codes cannot exceed $50 per hour nor $1,000 in total.	4 vendors have been selected.	Assessment tool to be finalized. Staff training to occur week of 11/7. Information will be shared with SLS providers. Managers will receive lists of persons needing assessments. Assessments to start before the end of November. Assessment tool (s) to be reviewed and refined in mid February.
(AB104) 17 and 18	**Individual Choice Day Services** *...a person may choose a tailored day service or vouchered community- based training service, in lieu of any other RC*	<u>TAILORED DAY SERVICES</u> Entities/persons not currently vendored as day program, look-alike day program, supported employment program or a work activity program seeking	Vouchered-implementation contingent upon approval by CMS.	Program to be adjusted upon request of the person served and through planning team approval.

	vendored day program, look-alike day program, supported employment program, or work activity program.	vendorization to provide tailored day services, must be vendored under an existing, appropriate service code for day program, look-alike day program, supported employment program or a work activity program. When purchasing tailored day services from a day program from...the RC shall sub code the expenditure accordingly...[see memo] <u>VOUCHERED SERVICES</u> This vouchered option is in lieu of any other RC vendored...program. ...the implementation...is contingent upon the approval of CMS...requested effective date of October 1, 2011. Additionally, as the statue requires use of a FMS, implementing regulations defining and establishing the use of and rates for such services will be released shortly. When implemented..will also be available to persons who are not Waiver beneficiaries.		
(AB104) 21	**Day Programs – Full & Half Day Billings** *Requires day programs with daily rates to bill RCs for services provided in terms of half and full days of service.*	RCs should ensure providers are aware of this provision and maintain appropriate documentation regarding individual attendance. Such documentation should be reviewed during RC and DDS vendor audits. DDS will not be establishing half-day rates; the statute does not change the rate. The statute requires the vendor to bill for one-half of their current rate when a person attends the program for 65% of less of the program day.	Letter was sent to all day program and look alike providers on 8/8/11. POS staff checks e-billing each month to ensure coding is correct. Information included in the new vendor and behavioral services packets.	
(AB104)	**Maximize Resources - Behavioral**	DDS notified RCs of these new	Letter was sent with form to all day	

16	**Services – Verification Form** *Effective July 1, 2011, the Lanterman Act (Welfare and Institutions code 4686.31) requires any vendor who provides Behavioral Services as specified in Title 17 of the California Code of Regulations to submit a completed verification form to the regional center for services provided to consumers under the age of 18 years who reside in the family home. The Department is required to post a form which can be used for this purpose. DDS has developed a new form (DS 5862) containing all the information the vendor is required to report. This form, along with instructions, is located on the DDS home page.*	requirements in an email dated July 11, 2011. The required form is available on the DDS homepage in English, Spanish, Tagalog, Russian, Chinese, and Vietnamese. In a case where the vendor notifies the RC the parent(s) or legally appointed guardian will not sign the form, the RC should follow-up with the parent/legally appointed guardian to determine if services were delivered prior to making payment.	program and look alike providers 8/4/11. POS staff are tracking forms and verifying receipt of forms, signature and hours signed off. Information included in the new vendor and behavioral services packets. Letters are being sent to providers and payments withheld if forms are not received.	Significant workload issues statewide. ARCA to work with DDS on acceptable audit standards of these forms.
(AB104) 15	**Maximizing Resources for Behavioral Services – Use of Paraprofessionals** *DDS to adopt emergency regulations to address the use of paraprofessionals in group practice provider behavioral intervention services and establish a rate.*	DDS staff is currently working on the needed regulations to implement the statutory provisions.	DDS posted the emergency regulations on 8/18/11. New category is available if needed. No requests for this level of service to date.	
(AB104) 5 and 6	**Transfer Prevention Program to FRCs** *Effective July 1, 2011, RC will refer an at-risk baby and family to the FRC for outreach, information, and referral services.*	DDS has contracted with the FRC Network of CA...to carry out the requirements...The program is known at the Prevention Resource and Referral Services... Local FRCs are required to negotiate a MOU with their RC by Sept. 1, 2011...	MOU was completed between TCRC and FRCs. TCRC completed the FRCNCA contract for Rainbow to provide these services in Ventura County and associated budget. Referrals are being made to FRCs.	Geographic resource book is being developed for use by each FRC.

(AB104) 10	**Transportation Access Plans** *Requires the development of a transportation access plan for persons when RC purchases private, specialized transportation; person is safe and enhances community integration; and generic transportation services are available.*	Where applicable, at the time of development, review or modification of the IPP, RCs must develop the required transportation access plan. DDS will review the RCs' implementation of this provision through the DDS' IPP monitoring protocol, as part of the HCBSW monitoring or other DDS monitoring activities.	Revisions to Service Policy on transportation for adults were reviewed at the Board Services and Supports Committee in October.	IPP template is being reviewed and revised for the TAP. Staff training on the TAP and proper documentation is being developed and expected to roll out in November/December. Internal transportation procedures to be revised.
(AB104) 1, 8 and 9	**Health Benefit Cards** *At the time of intake, assessment or IPP/IFSP, copies of any health benefit cards shall be presented by parents, legal guardian, or conservator.*	[No further guidance from DDS provided in August 4, 2011 implementation letter.]	Process has been started.	Staff to receive periodic reminder on collecting Health Benefit cards and ensure proper documentation for audits.

Attachment #5

Southern California Conference of Regional Center Directors

15400 Sherman Way, Suite 170, Van Nuys, CA 91406-4211 (818) 756-6200

July 28, 2011

Subject: Meeting at Harbor Regional Center on August 16th

Dear

The Southern California Conference of Regional Center Directors (SCCRCD) would like to initiate a dialogue among board presidents or ARCA delegates of its member centers. A consensus exists among the Southern California executive directors that we must begin to discuss the future direction of the community system and develop a comprehensive strategy that moves us towards that future. Moreover, we all agree that we cannot continue to utilize the same old practices and tactics to respond to eroding regional center operations funding and overall threats to the community system as we know it today.

Given the threat of more reductions in January 2012, we believe that it is imperative that we act now. Regional centers cannot sustain any further cuts and expect to remain viable. As such, the SCCRCD is extending an invitation to board presidents and/or ARCA delegates of its member centers to attend a meeting to discuss "A Proposal for the Way Forward for Regional Centers." The document is enclosed.

The meeting is scheduled for 6:00 p.m. on Tuesday, August 16, 2011 at Harbor Regional Center, located at 21231 Hawthorne Boulevard in Torrance. A light dinner will be served.

Please RSVP to Amy Smith at Harbor Regional Center by Friday, August 12, 2011. Amy may be reached at (310) 543-0632 or amy.smith@harborrc.org.

Thank you,

George Stevens

George Stevens
Chair, SCCRCD

Southern California Conference of Regional Center Directors

15400 Sherman Way, Suite 170, Van Nuys, CA 91406-4211 (818) 756-6200

A Proposal for the Way Forward for Regional Centers

July 28, 2011

In less than five years we will mark a half century of regional centers serving Californians with developmental disabilities. What should be cause for celebration is tempered by continuing pressures on the developmental services system that are making it increasingly difficult for regional centers to meet the needs of their clients and families. External forces, driven primarily by budget shortfalls, have been imposing changes on the system, exemplified by the development of service standards and changes in eligibility criteria for regional center services. Such changes, combined with continued budget reductions, will ultimately prevent regional centers from achieving the vision described in the Lanterman Act. In an attempt to respond proactively to these pressures, we are proposing a strategy to solicit input from stakeholders aimed at developing a consensus on the way forward for the system.

The Current Situation

Dynamics which have contributed to the current crisis situation in the community service system include the following:

- The regional center system was created 45 years ago and despite significant changes in the greater environment, the mission and the model have remained the same since that time.
- When it was created, the system was entirely state-funded.
- The community service system, including regional centers and service providers, has not been adequately funded, particularly since the early 1990s.
- Since the mid-1980s, the state has been increasingly reliant on federal funding to support the community-based system. In FY 2011-12, it is expected that federal funding will constitute more than 44% of the community services budget. Further, the state is currently seeking increased federal funding through an expansion of the Home and Community Based Services (HCBS) waiver to an additional 40,000 clients.
- The high level of federal financial participation constitutes a constant threat to the system if federal funds are withdrawn. There is precedent for this. In 1995, following an audit of the HCBS waiver program, the Health Care Financing Administration (now called the Centers for Medicare and Medicaid Services) demanded a number of reforms as a condition of California's continued participation in the waiver program. The reforms required the state to increase funding to the community service system by 18%.

- We are currently facing threats to federal financing due to the ongoing budget pressures affecting the nation.
- Under the "trigger" provision of the current state budget, the regional center system could be facing an additional reduction of $100 million in the current year budget if revenues fall short of projections. Such a reduction, on top of the repeated reductions to centers in past years, raises the serious possibility that the system will be at risk of becoming dysfunctional and unable to carry out its mission.
- Mandates accompanying federal funding, as well as unfunded mandates imposed by the state, have significantly increased regional centers' workloads without commensurate funding increases.
- In an effort to reduce costs, eligibility criteria for both Early Start and Lanterman (status 2) services have become increasingly restrictive, resulting in inequity for individuals who would have in the past been eligible for services but are now ineligible.
- While imposition of service standards and changes to eligibility criteria have resulted in some cost savings, the average per client cost of services continues to increase due at least partly to the increase in the incidence of clients with a diagnosis of autism whose service costs typically exceed those of clients without autism.
- Changes to eligibility for early intervention services, while bringing small short-term savings, may result in increased costs to the state in future years.
- Because of rising expectations without regard for shrinking government resources, clients are offered increasingly expensive services, some of which are of unproven effectiveness. Further, the Department of Developmental Services (DDS) has established no structure or method for systematically evaluating the efficacy of new treatment approaches.
- Service providers, families, and policy leaders appear to be increasingly critical of regional centers. These stakeholders have suggested that the funding issues could be resolved if the costs of regional center operations were removed from the system, even though regional centers consume only about 12.6% of the community services budget and most of these dollars are devoted to direct services to clients, such as service coordination.

As the gap between expectations and financial support widens, it appears that the regional center system may be on the wrong road. That is, it appears that continued "tinkering" with the system will not only fail to effectively address the challenges but also result in a system that is unable to carry out its mission.

We believe it is necessary at this point to engage in honest self-reflection within a formal process that involves all stakeholders to the regional center system including clients and families, service providers, advocates, and policy makers as well as regional centers. Regional centers must be willing to take risks, hear the critics, and be open to change and innovation. In addition, all stakeholders must recognize the limitations on public funds and the implications of these limitations on client and family choice. Our ultimate goal is to develop a way forward that will ensure sustainability of the system for the next 50 years.

Attachment #6

Southern California Conference of Regional Center Directors

15400 Sherman Way, Suite 170, Van Nuys, CA 91406-4211 (818) 756-6200

Date: September 28, 2011

To: Executive Directors and Board Presidents

From: George Stevens, Chair

Subject: Status Report: "The Way Forward"

The Way Forward Framework Subgroup, including Diane Anand, Pat Del Monico, Jim Shorter, Omar Noorzad, and me, assisted by Sharon Shueman, met at NLACRC on Friday, September 16th. Phil Bonnet, who had agreed to join the group, was unable to attend due to a personal emergency. The group's primary goal is to recommend a strategy for collecting input from interested persons concerning changes that could be made to the developmental services system that would help ensure its sustainability into the future.

The key outcome of the September 16th meeting was an agreement to define functional components of the system that can be used as the primary framework for gathering input. Functional components can relate to: *service* (e.g. intake and assessment); *administration* (e.g., paying for services); and the *system* (e.g. local control vs. centralized). These components will be used to create survey items targeting different groups (providers, families, advocates, etc.). In the surveys, we would offer some alternatives to current practices in order to obtain reactions and give respondents the opportunity to offer their own alternatives. We do not envision mass distribution of the surveys. Rather, we will create a plan for identifying targeted individuals and organizations to maximize the value of the input.

We thought it would also be useful to interview state and national leaders in developmental services. Finally, while we also discussed the use of focus groups, there appeared to be little enthusiasm at this point for that strategy.

We reached consensus on many of the functional components and, as a first step, they are being written up and circulated to subgroup members who will offer suggestions on alternative ways of handling each function. Their input will be used to develop actual survey items.

This subgroup will be meeting on an approximate monthly basis, with our next meeting occurring on November 2nd. We plan on bringing our recommendations to the larger group in January.

You should also note that the group has engaged Sharon Shueman to facilitate this development process and we recommend that she remain involved for the duration of the activity. Lanterman Regional Center will contract with her directly and will bill involved centers a portion of the cost.