TRI-COUNTIES REGIONAL CENTER
EXECUTIVE DIRECTOR REPORT
July 12, 2013

I. FY 2013-2014 BUDGET & LEGISLATIVE UPDATE

Attachment #1: Governor's Budget - May Revision Highlights Department of Developmental Services

Attachment #2: ARCA Analysis of the May Revision for FY 2013-14

Attachment #3: California Department of Developmental Services – Regional Centers, 2013 May Revision – Future Fiscal Issues

Attachment #4: Association of Regional Center Agencies, Analysis of Trailer Bill AB 89, June 11, 2013

Attachment #5: Excerpt of ARCA Tracked Bills and Related Positions

Attachment #6: ARCA Position Letter – SB 468

Attachment #7: ARCA Position Letter – SB 158

Attachment #8: ARCA Position Letter – AB 1089

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Attachment #10: ARCA – A Brief Note on Early Start

Attachment #11: California Healthline – New Budget Makes 'Major Change' to Lanterman Act, Autism Policy

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Attachment #13: Disability Rights California - 8% Across-the-Board Cut to IHSS

Attachment #14: California Healthline - Federal Court Upholds 10% Medi-Cal Provider Cut

Attachment #15: SB 579 (Berryhill) – Developmental Disabilities Services System Oversight Efficiency and Quality Enhancement Act

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TRI-COUNTIES REGIONAL CENTER
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Budget Passed by Legislature and Signed by the Governor

The Governor signed the main budget bill on June 27th and made some line item vetoes, though none impacting health or human services. The main budget bill for the Department of Developmental Services (DDS), including regional centers, contains basically the budget numbers from the Governor's May Revision. The changes in State law, however, that are necessary to implement this budget are in the various budget trailer bills. For DDS, Regional Centers and Developmental Centers, AB 89 is the main developmental services budget trailer bill. See Attachment #4 for an analysis of AB 89 provided by the Association of Regional Center Agencies (ARCA).

The Governor's May Revision Proposal, released on May 14, 2013, is an update to his initial budget proposal which was released on January 10, 2013. The 2013 May Revise included almost $5.0 billion total funds ($2.8 billion General Fund) for DDS in FY 2013-14. This includes funding for Regional Centers, Developmental Centers and DDS Headquarters.

The FY 2013-14 budget includes $151.8 million increase in POS over the revised current year budget. $116.5 million of the increase is for caseload and utilization growth. $40 million of the increase is to restore the funds due to the sunset of the 1.25% payment reduction.

The regional centers operations (OPS) budget for FY 2013-14 includes a $24.6 million increase over the revised current year budget. $16.9 million of the increase is for caseload and utilization growth. $6.7 million of the increase is to restore the funds due to the sunset of the 1.25% payment reduction.

The Governor's May Revision listed four future fiscal issues for the DDS budget (see Attachment #3):

- The impact from changes to the Autism Spectrum Disorder classification in the Diagnostic and Statistical Manual (DSM) Version IV to DSM-5
- The potential change in Federal overtime requirements which impacts In-Home Supportive Services workers – DDS has estimated this could cost an additional $21 million in POS
- Changes in Rates for Intermediate Care Facilities (ICFs)
- The 8% reduction in In-Home Supportive Services (IHSS) hours for all recipients.

An excerpt of bills tracked by ARCA throughout the Legislative review process is included in this report. See Attachments #5 through #9, which includes several position letters issued by ARCA.

Early Start

Early Start is the State's federally matched funded early intervention program. In 2009, the Governor and Legislature enacted major reductions to the program including significant narrowing of eligibility. The Assembly proposed increasing Early Start funding by $12 million to restore eligibility to the pre-2009 level. This proposal was not included in the approved Budget for FY 2013- 2014. ARCA is continuing to work on this initiative (see Attachment #10).

Applied Behavioral Analysis (ABA) Services

Currently ABA services are not a Medi-Cal benefit but the Senate proposed adding ABA services as a Medi-Cal benefit for children who are not eligible for regional center funded services and to assist those children transitioning from the Healthy Families Program to Medi-Cal managed care. The proposal estimated a cost of $100 million total funds for FY 2013-14. This provision was not approved as part of the budget trailer bill in June (see Attachment #11).

Medi-Cal Dental Coverage Partially Restored

In 2009, the Governor proposed and the Legislature approved as part of the 2009-2010 State Budget, the elimination of 9 Medi-Cal "optional benefits" including adult dental services. Children up to age 22 in the Medi-Cal program continued to receive Medi-Cal dental services. Certain dental services for adults with developmental disabilities have been provided to those eligible for regional center funded services effective January 2012, through Denti-Cal, funded by DDS. The Senate proposed full restoration of services effective in 2013 costing $262 million in total funds for FY 2013-14.

Legislative leaders and the Governor agreed on a budget plan in mid-June that restores partial funding for dental services through Medi-Cal. The approved budget will provide for preventive care, dental restorations and full dentures for adult beneficiaries of Medi-Cal (see Attachment #12).

Reduction in IHSS hours

Governor Brown signed SB 67 which includes a temporary 8% across the board cut in hours for all IHSS recipients beginning July 1, 2013, followed by a small 7% cut beginning July 1, 2014 and ending on June 30, 2015. The temporary reductions will replace an existing 3.6% across the board cut in hours to all IHSS recipients that was originally authorized as part of the FY 2010-11 State Budget, and is scheduled to end on June 30, 2013. IHSS workers will see a reduction in their pay that corresponds with the reduction in lost hours.

Disability Rights California created an easy to understand document explaining these cuts (see Attachment #13).

Rate Reduction of 10% for Medi-Cal Providers

The U.S. Ninth Circuit Court of Appeals upheld the right of California to impose a 10% rate reduction on providers of Medi-Cal services. The 10% reduction represents about $600 million a year to California's budget. The Legislature passed the 10% across-the-board reductions in 2011 which was put on hold until the court case could be resolved. State officials have said that the reduction can be paid back over four years which would mean a 15% rate reduction for Medi-Cal providers over the next four years and a 10% reduction after that. Two bills were introduced that intended to reverse the 10% cut. The reduction could be implemented this summer. (See Attachment #14.)

SB 579

SB 579 is a bill sponsored by ARCA that would create a five-year Oversight Efficiency and Quality Enhancement Model pilot project that would place authority for service quality at DDS and three pilot regional centers (see Attachment #15). TCRC and ARCA jointly hosted an informational meeting for interested service providers and regional center staff on June 28th.

II. CASH FLOW UPDATE

TCRC has secured a revolving credit line with Union Bank in the amount of $33.6 million. This credit line is intended to pay for services provided in FY 2012-13, in the event cash reimbursements from the State are delayed. This credit line extends through October 15, 2013, after which we expect to have adequate funding available from the FY 2013-14 cash advances.

Due to recent delays in funding from the State, TCRC was required to draw $1 million against the credit line at the end of May to sufficiently cover the last POS pay date and payroll. State reimbursement was received on May 31st and the credit line was repaid on June 3rd. TCRC also drew $5.2 million in the middle of June to cover the POS E-Billing check run. State reimbursement was received on Friday June 21st and the credit line was repaid on Monday June 24th. Given the continued delays in payment from the State, we are anticipating the need to access the credit line during July.

The timeliness of the cash advances for FY 2013-14 is a significant factor in ensuring adequate cash to meet obligations. The first cash advance of $14.3 million was received on July 9th. The second cash advance of $14.3 million must be received by July 19th in order to avoid drawing on the credit line. If the funds are not received by this date, TCRC will need to borrow up to $3.5 million in order to pay expenses through the end of July. The third cash advance of $14.3 mil is expected on August 1st.

TCRC expects that the revolving line of credit for FY 2013-14 will be renewed on or around October 1, 2013.

As in past years, we strongly encourage all TCRC service providers to make efforts to secure their own lines of credit with their banks.

III. FISCAL YEAR 2013-2014 UNIFORM HOLIDAY SCHEDULE

DDS surveyed stakeholders on their holiday preferences for the uniform holiday schedule that impacts a variety of services, primarily day programs and related transportation. The uniform schedule has been changed as result (see Attachment #16).

IV. BUREAU OF STATE AUDITS REPORT – DEVELOPMENTAL CENTERS

The Bureau of State Audits recently posted its report on developmental centers titled "Poor-Quality Investigations, Outdated Policies, Leadership and Staffing Problems, and Untimely Licensing Reviews Put Residents at Risk" on its website (http://www.bsa.ca.gov/). See Attachment #17 for a brief report.

V. AUTISM HEALTH INSURANCE PLAN MANDATE (SB 946) IMPLEMENTATION & FY 2013-2014 CHANGES

Attachment #18: TCRC Information for Families Regarding Regional Center Payment of Health Insurance Deductibles, Co-Pays and Co-Insurance

VI. DDS EMERGENCY REGULATIONS – SECURED PERIMETER/DELAYED EGRESS

DDS published these Emergency Regulations on 6/14/13. For an individual who "lacks awareness and impulse control" the use of delayed egress devices and secured perimeters may be utilized in order to deter the likelihood of a more restrictive setting such as a locked mental health facility, developmental center, jail, prison, or state or county juvenile detention facility. Residential facilities of 15 or less residents that are utilizing delayed egress devices may also utilize secured perimeters. The grounds of the facilities may be fences and gates may be equipped with locks. The Planning Team will determine if an individual should reside in such a facility. TCRC may develop facilities with these devices when planning for community placement or deflection for individuals deemed in need through a comprehensive assessment along with recommendation by the Planning Team. The regulations are available on the DDS website at www.dds.ca.gov under the Laws and Regulations link.

VII. ANNUAL POS STATEMENT OF SERVICES – Required by State Law (Welfare & Institutions Code Section 4648(h))

The annual POS Statements of Services were mailed to approximately 12,000 persons served and/or their family members on June 15, 2013. The statement indicates services purchased by TCRC on behalf of the person served, and corresponding costs, for the calendar year 2012. The mailing also included a sample of how to read the statement and frequently asked questions. The statement does not include costs associated with support, assistance and expertise provided by a person's service coordinator. Questions about the statements should be directed to the Service Coordinator.

VIII. Q & A

Attachment #1

Department of Developmental Services

May Revision Highlights

Edmund G. Brown Jr.
Governor
State of California

Diana S. Dooley
Secretary
California Health and Human Services Agency

Terri Delgadillo
Director
Department of Developmental Services

May 2013

DEPARTMENT OF DEVELOPMENTAL SERVICES
MAY REVISION HIGHLIGHTS

PROGRAM HIGHLIGHTS

The Department of Developmental Services (the Department) is currently responsible under the Lanterman Developmental Disabilities Services Act (Lanterman Act) for ensuring that 257,793 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 increase from 256,224 in the current year to 265,097 in Fiscal Year (FY) 2013-14. The number of individuals living in state-operated residential facilities will be 1,209 by the end of FY 2013-14.

The 2013 May Revise includes $5.0 billion total funds ($2.8 billion General Fund) for the Department in 2013-14; a net increase of $35.7 million above the 2013 Governor's Budget.

COMMUNITY SERVICES PROGRAM

2012-13

To provide services and support to 256,224 persons with developmental disabilities in the community, the May Revision updates FY 2012-13 funding to $4.2 billion total funds ($2.3 billion GF). The May Revision includes an increase of $41.4 million total funds ($48.6 million GF) for regional center operations (OPS) and purchase of services (POS). This is primarily composed of:

Caseload and Utilization

$41.2 million ($12.6 million GF) increase in regional center OPS and POS costs due to updated caseload and expenditure data including Home and Community Based Services (HCBS) waiver enrollment above budgeted levels.

Fund Shifts:

- California Children and Families Commission (POS) – $25.0 million from reimbursements to GF to reflect a reduction in funding from the Commission.

- Title XX Social Services Block Grant (POS) – $5.7 million from reimbursements to GF to reflect a Federal Sequester reduction.

- Annual Family Program Fee (AFPF) (POS) – $3.4 million from the Program Development Fund (PDF) to GF to reflect an update of revenues based on actual assessments, exemptions and collections in administering the program.

- 1915(k) State Plan Amendment (SPA) (POS) – $1.9 million from reimbursements to GF due to the deferred inclusion of developmental services in the SPA.

2013-14

The May Revision projects an average community caseload of 265,097 individuals in the budget year, a decrease of -1,003 consumers from the 2013 Governor's Budget. The estimate proposes 2013-14 funding for services and support to persons with developmental disabilities in the community at $4.4 billion total funds ($2.5 billion GF), an increase of $31.7 million ($23.8 million GF) over the 2013 Governor's Budget. The significant regional center budget changes include:

Caseload and Utilization

$33.6 million ($0.7 million GF) increase in regional center OPS and POS costs due to updated caseload and expenditure data including HCBS waiver enrollment above budgeted levels.

Fund Shift

- Title XX Social Services Block Grant (POS) – $11.9 million from reimbursements to GF to reflect a Federal Sequester reduction.

- AFPF (POS) – $3.3 million from the PDF to GF to reflect an update of revenues based upon information regarding actual assessments, exemptions and collections in administering the program.

- 1915(k) SPA (POS) – $7.0 million from reimbursements to GF due to the deferred inclusion of developmental services in the SPA.

Early Start

- Early Start (POS and Other Agency Costs) - $3.4 million decrease in the Federal grant due to a Sequester reduction and reallocation of Part C funds among states, of which $0.6 million is being backfilled for POS for a net reduction of $2.8 million.

DEVELOPMENTAL CENTERS PROGRAM

2012-13

To provide services and support for 1,569 residents in developmental centers (average in-center population) the May Revision updates FY 2012-13 funding to $547.0 million ($292.4 million GF), an increase of $1.8 million ($8.5 million GF) over the 2013 Governor's Budget. Authorized positions remain at 5,154. The significant developmental center budget changes include:

- $0.3 million ($0.2 million GF) to fund the Independent Consultative Review Expert (ICRE) contract as required by the Sonoma Developmental Center (Sonoma) Program Improvement Plan (PIP).

- $7.4 million fund shift from Reimbursements to General Fund to backfill loss of Federal Funding from the four Sonoma Intermediate Care Facility (ICF) units withdrawn from Medi-Cal.

- $1.5 million ($0.9 million GF) funding increase due to higher than anticipated resident population on April 1, 2013, primarily based on fewer individuals transitioning from Lanterman Developmental Center to community settings. The increase includes $1.0 million ($0.6 million GF) in Level of Care (LOC) and $0.5 million ($0.3 million GF) in Non-Level of Care (NLOC). The staffing needed to support the increased residential population is formula driven based on approved standards. However, positions are not being requested at this time, due to the current DDS vacancy rate.

2013-14

For FY 2013-14, the May Revision provides services and support for 1,333 residents (average in-center population) in developmental centers, an increase of 29 residents from the 2013 Governor's Budget. This increases funding to $542.9 million ($297.6 million GF); an increase of $3.9 million ($18.4 million GF). Authorized positions remain at 4,768. By the end of the budget year there is expected to be 1,209 individuals residing in the state operated facilities. Adjustments to the 2013 Governor's Budget for the developmental centers include:

- $1.5 million ($0.9 million GF) funding increase change due to the anticipated increase of 29 residents primarily from lower than projected transition of individuals into the community from the 2013 Governor's Budget. The increase includes $2.3 million ($1.4 million GF) in LOC and -$0.8 million (-$0.5 million GF) in NLOC. The staffing needed to support the increased residential population is formula driven based on approved standards. However, positions are not being requested at this time, due to the current DDS vacancy rate.

- $2.5 million ($1.7 million GF) to fund the on-going ICRE contract as required by the Sonoma PIP.

- $15.7 million Fund shift from Reimbursements to General Fund to backfill loss of Federal Funding from the four Sonoma ICF units withdrawn from Medi-Cal.

- May Revise requests provisional language to authorize up to $10 million General Fund to address costs necessary to implement the Action Plan developed in accordance with the Program Improvement Plan for the Sonoma Developmental Center.

LANTERMAN DEVELOPMENTAL CENTER CLOSURE UPDATE

The May Revision continues to support Developmental Center and Community efforts towards closure of the Lanterman facility. The Department, working with regional centers, anticipates the transition of approximately 100 Lanterman Developmental Center (Lanterman) residents in FY 2012-13, 10 less than projected from the 2013 Governor's Budget. The May Revision anticipates the transition of another 120 residents to community living arrangements in FY 2013-14, an additional 10 above the 2013 Governor's Budget.

- The May Revision includes a $0.4 million ($0.2 million GF) increase with no position adjustment in 2012-13:

    - $0.4 million ($0.2 million GF) funding increase ($0.3 million LOC and $0.1 million NLOC) resulting from higher than anticipated residential population at Lanterman over the course of the year based on fewer individual placements in the community for 2012-13. The staffing needed to support the increased residential population is formula driven based on approved standards. However, positions are not being requested at this time, due to the current DDS vacancy rate.

- The May Revision reflects a net decrease in 2013-14 of -$0.4 million (-$0.2 million GF) and no positions:

    - -$0.4 million (-$0.2 million GF) reduction which is the result of an anticipated increase in the average in-center population from 85 to 91 residents, as compared to the 2013 Governor's Budget, as well as an ICF unit closure. The change includes an increase of $0.5 million in LOC and a reduction of -$0.9 million in NLOC.

The Lanterman Closure Update Report and closure milestones will be released separately.

CAPITAL OUTLAY

The May Revise does not include any new Capital Outlay requests.

HEADQUARTERS

The May Revise does not include any new Headquarters requests.

DEPARTMENT OF DEVELOPMENTAL SERVICES
2013 May Revision

FUNDING SUMMARY
(Dollars in Thousands)

	2012-13	2013-14	Difference
BUDGET SUMMARY			
COMMUNITY SERVICES	$4,207,775	$4,381,422	$173,647
DEVELOPMENTAL CENTERS	546,956	542,928	-4,028
HEADQUARTERS SUPPORT	37,796	39,280	1,484
TOTALS, ALL PROGRAMS	**$4,792,527**	**$4,963,630**	**$171,103**
FUND SOURCES			
General Fund	$2,661,324	$2,801,540	$140,216
Reimbursements: Totals All	2,068,250	2,102,438	34,188
Medicaid (aka HCBS) Waiver	*1,153,168*	*1,193,805*	*40,637*
Medicaid (HCBS) Waiver Administration	*8,889*	*9,435*	*546*
Medicaid Administration (NHR)	*11,359*	*11,685*	*326*
Targeted Case Management	*140,399*	*148,952*	*8,553*
Targeted Case Management Admin.	*3,977*	*4,016*	*39*
Medi-Cal	*244,847*	*235,857*	*-8,990*
Title XX Block Grant	*219,400*	*213,191*	*-6,209*
Self-Directed HCBS Waiver	*348*	*390*	*42*
ICF-DD/State Plan Amendment	*55,478*	*58,193*	*2,715*
Quality Assurance Fees (DHCS)	*9,818*	*10,297*	*479*
California First Five Commission	*15,000*	*0*	*-15,000*
1915(i) State Plan Amendment	*161,556*	*167,842*	*6,286*
Money Follows the Person	*14,867*	*14,867*	*0*
Homeland Security Grant	*57*	*391*	*334*
Race to the Top	*286*	*286*	*0*
Early Periodic Screening Diagnostic & Treatment	*13,190*	*17,587*	*4,397*
Other	*15,611*	*15,644*	*33*
Federal Trust Fund	55,083	51,653	-3,430
Lottery Education Fund	465	465	0
Program Development Fund (PDF)	6,125	6,256	131
Mental Health Services Fund	1,129	1,128	-1
Developmental Disabilities Svs Acct	150	150	0
AVERAGE CASELOAD			
Developmental Centers	1,569	1,333	-236
Regional Centers	256,224	265,097	8,873
AUTHORIZED POSITIONS			
Developmental Centers	5,154.0	4,768.0	-386.0
Headquarters	374.5	374.5	0.0

DEPARTMENT OF DEVELOPMENTAL SERVICES
2013 May Revision

(Dollars in Thousands)

	2012-13	2013-14	Difference
Community Services Program			
Regional Centers	$4,207,775	$4,381,422	$173,647
Totals, Community Services	**$4,207,775**	**$4,381,422**	**$173,647**
General Fund	$2,344,720	$2,478,898	$134,178
Dev Disabilities PDF	5,839	5,970	131
Developmental Disabilities Svs Acct	150	150	0
Federal Trust Fund	52,006	48,618	-3,388
Reimbursements	1,804,320	1,847,046	42,726
Mental Health Services Fund	740	740	0
Developmental Centers Program			
Personal Services	$441,322	$438,666	-$2,656
Operating Expense & Equipment	105,634	104,262	-1,372
Total, Developmental Centers	**$546,956**	**$542,928**	**-$4,028**
General Fund	$292,404	$297,635	$5,231
Federal Trust Fund	510	510	0
Lottery Education Fund	465	465	0
Reimbursements	253,576	244,318	-9,258
Headquarters Support			
Personal Services	$33,353	$34,880	$1,527
Operating Expense & Equipment	4,443	$4,400	-43
Total, Headquarters Support	**$37,796**	**$39,280**	**$1,484**
General Fund	$24,200	$25,007	$807
Federal Trust Fund	2,567	2,525	-42
PDF	286	286	0
Reimbursements	10,354	11,074	720
Mental Health Services Fund	389	388	-1
Totals, All Programs	**$4,792,527**	**$4,963,630**	**$171,103**
Total Funding			
General Fund	$2,661,324	$2,801,540	$140,216
Federal Trust Fund	55,083	51,653	-3,430
Lottery Education Fund	465	465	0
Dev Disabilities PDF	6,125	6,256	131
Developmental Disabilities Svs Acct	150	150	0
Reimbursements	2,068,250	2,102,438	34,188
Mental Health Services Fund	1,129	1,128	-1
Caseloads			
Developmental Centers	1,569	1,333	-236
Regional Centers	256,224	265,097	8,873
Authorized Positions			
Developmental Centers	5,154.0	4,768.0	-386.0
Headquarters	374.5	374.5	0.0

ASSOCIATION OF REGIONAL CENTER AGENCIES
ANALYSIS OF THE MAY REVISION FOR FY 2013-14
REGIONAL CENTER BUDGET
MAY 14, 2013

Caseload

FY 2012-13

The projected number of Status 1 (Early Start) and Status 2 (Active) clients as of January 31, 2013 has decreased by 648 clients from the November Estimate number to 256,224.

FY 2013-14

It is assumed that the number of Status 1 and Status 2 clients will increase by 8,637 clients (3.4%) to 266,430 by January 31, 2014.

Purchase of Service (POS)

FY 2012-13

- There is a net increase to the POS budget of $42.1 million due to updated caseload and expenditure data.
- There is also an increase of $182,000 for the Quality Assurance fees for the Intermediate Care Facilities.

FY 2013-14

Overall there is a $151.8 million (4.2%) increase in POS over the current year.

- A $116.5 million increase over current fiscal year for caseload and utilization growth.
- A $40.0 million for the restoration of funds due to the sunset of the 1.25% payment reduction.
- A $438 thousand increase in Quality Assurance fees related to the ICF-SPA to reflect updated utilization data.
- A $5.1 million decrease to copayments for services paid by health insurance providers. This decrease is due to Trailer Bill Language which will limit regional center payments for insurance copayments based on the family's ability to pay and to prohibit the payment of insurance deductibles.

Prevention

Funding for Prevention remains at $2.0 million for the contracts with the Family Resource Centers. There is no funding for regional center services to Prevention Program consumers.

Regional Center Operations (OPS)

FY 2012-13

In the current fiscal year, there is a net decrease of $0.9 million in OPS due to:

- Updated caseload numbers. This has resulted in a $1.0 million decrease in OPS.
- A $62 thousand increase in Federal Compliance funds for additional case managers to meet HCBS Waiver requirements.
- A $33 thousand increase in the ICF-SPA Administrative Fees.

FY 2013-14

The budget year includes a $24.6 million (4.6%) increase over the revised current year budget. This is a $1.8 million decrease from the November Estimate which projected a $26.4 million increase.

- The budget fiscal year now assumes an increase of $16.9 million (3.7%) over current year due to updated caseload numbers.
- The 1.25% payment reduction will sunset on June 30, 2013. Consequently, $6.7 million is restored to the OPS budget.
- A $491 thouusand increase in Federal Compliance funds for additional case managers to meet HCBS Waiver requirements.
- A $507 thousand increase in Projects for the Quality Assessment Contract and the Homeland security Grant.
- The administrative fees regional centers receive for processing the ICF-DD SPA invoices has been increased by $81 thousand due to projected increases in day program and transportation services for clients residing in ICF-DDs.

Funding

Some items of note in changes to regional center funding are:

- A $3.3 million decrease in the estimated revenues from the Annual Family Program Fee (AFPF). Revenues from the AFPF were originally projected to be $7.2 million and have now been decreased to $3.9 million.
- Elimination of $15 million from the California First Five Commission in the budget year. In the current year this had been reduced from $40 million to $15 million.

Future Fiscal Issues

The May Revision lists four items in this section.

- Diagnostic and Statistical Manual (DSM) Version IV to DSM-5 Impacts – At this time DDS does not know what affect the changes to the Autism Spectrum Disorder (ASD) classification will have on client growth.
- Potential Change in Federal Overtime Requirements – DDS has estimated that this potential change could cost the regional centers an additional $21 million in POS.

- Change in Rates for Intermediate Care facilities – DDS is monitoring this situation.
- An 8% Reduction in In-Home Supportive Services (IHSS) Hours – DDS is working to estimate the cost of this reduction in IHSS hours. In previous fiscal years, whenever there has been a reduction in IHSS hours (or a reduction in services provided by other departments) the regional cener budgets have been increased to compensate for the corresponding increase in POS due to the reduction.

ASSOCIATION OF REGIONAL CENTER AGENCIES
SUMMARY OF CHANGES
FY 2012-13 BUDGET ACT TO MAY REVISION FOR FY 2013-14
MAY 15, 2013

PURCHASE OF SERVICE BUDGET

	Purchase of Service	Quality Assurance Fees	Impacts from Other Departments	Copayments	Total POS
FY 2012-13 Enacted Budget	**$3,548,845,000**	**$8,804,000**	**$31,187,000**	**$0**	**$3,588,836,000**
Update of Caseload, Utilization, and Expenditure Data	$74,790,000				$74,790,000
Decrease due to DHCS's Withdrawal of Proposed Copayments for Certain services			($30,832,000)		($30,832,000)
Copayments for Services Paid by Health Insurance				$15,000,000	$15,000,000
Increase in QA fees for updated Expenditure Data		$182,000			$182,000
Updated FY 2012-13 Budget - May Revision	**$3,623,635,000**	**$8,986,000**	**$355,000**	**$15,000,000**	**$3,647,976,000**
Update of Caseload, Utilization, and Expenditure Data	$115,957,000	$438,000			$116,395,000
Sunset of 1.25% Payment Reduction	$40,518,000				$40,518,000
Effect of TBL to Limit Copayments and Prohibit Paying Insurance Deductibles				($5,135,000)	($5,135,000)
Proposed FY 2013-14 Budget - May Revision	**$3,780,110,000**	**$9,424,000**	**$355,000**	**$9,865,000**	**$3,799,754,000**

REGIONAL CENTER OPERATIONS BUDGET

	Operations	ICF-DD Administrative Fees	Total Operations
FY 2012-13 Enacted Budget	**$533,326,000**	**$1,631,000**	**$534,957,000**
Caseload and Expenditure Update	$2,425,000	$33,000	$2,458,000
Updated FY 2012-13 Budget - May Revision	**$535,751,000**	**$1,664,000**	**$537,415,000**
Caseload and Expenditure Update	$17,903,000	$81,000	$17,984,000
Sunset of 1.25% Payment Reduction	$6,660,000		$6,660,000
Updated FY 2012-13 Budget	**$560,314,000**	**$1,745,000**	**$562,059,000**

FUTURE FISCAL ISSUES

Diagnostic and Statistical Manual (DSM) Version IV to DSM-5 Impacts

The Diagnostic and Statistical Manual of Mental Disorders, version four (DSM IV) is used by clinicians and psychiatrists to diagnose psychiatric illnesses. An updated version, the DSM-5, is in the development process with an anticipated release date of May 2013. A significant change in the DSM-5 is the categorization of autism. In the DSM IV, autism is a distinct diagnosis. In contrast, earlier public drafts of the DSM-5 uses the term Autism Spectrum Disorder (ASD) which includes other currently distinct diagnoses such as Asperger's Syndrome and Pervasive Developmental Disorder. California statute identifies autism as one of the diagnoses that can be considered in determining eligibility for regional center services. Since the change to the ASD classification could include more diagnoses that are considered "autism", there is a potential impact on the number of individuals eligible for regional center services. Since the impact of this change (cost or savings) is as yet undetermined, the DDS will continue to monitor the upcoming implementation of the DSM-5 and will submit a new major assumption if appropriate.

Potential Change in Federal Overtime Requirements

In December of 2011, the federal Department of Labor published proposed regulations that would revise the implementation of the Fair Labor Standards Act (FLSA) to include home care workers, also known as personal care assistants, in overtime compensation. The proposed revisions would change and limit the allowable activities that qualify for an exemption to the overtime requirements, and change conditions of work for family employers.

Regional centers purchase a variety of services such as respite, supported living, and personal assistance, that have rates determined, in part, by the exemption from overtime pay requirements pursuant to the definition for 'personal attendant' provided by the California Industrial Welfare Commission Wage Order No. 15-2001. The proposed FLSA changes would supersede the State's overtime pay exemption. As a result of possible FLSA changes, it is likely that providers of services with rates impacted by new overtime pay requirements may require rate increases in order to stay in compliance with federal regulation. The fiscal impact is estimated to be approximately $21 million for DDS.

Change of Rates for some Intermediate Care Facilities (ICFs)

On February 27, 2013, the Centers for Medicare and Medicaid Services (CMS) approved a state plan amendment submitted by the Department of Health Care Services (DHCS) changing the rate setting methodology for ICFs. Applying this new methodology, DHCS estimates that 36% of ICFs may be subject to a rate reduction of up to 10%, retroactive to August 1, 2012. Stakeholders have expressed concern, both prior to and after CMS' approval that enacting this change would result in some ICFs closing because the providers could not absorb a reduction in rates that have been frozen since 2008. Other

residential options (e.g. at a different ICF or in a regional center funded setting) would be necessary for the individuals residing in any ICFs that decide to no longer offer ICF services. Since ICFs are funded by Medi-Cal, any movement of individuals from an ICF to a regional center funded residential setting will result in increased costs for DDS. The number of ICFs that may cease operation and the resulting fiscal impact has not been determined. DDS, in conjunction with DHCS, will continue to monitor the outcome of the application of the new rate setting methodology.

In-Home Supportive Services 8 Percent Reduction in Hours

March 19, 2013 the California Department of Social Services (CDSS) reached a settlement in the class action lawsuit *Oster v. Lightbourne*. In the settlement CDSS has agreed to repeal and eliminate the 20 percent across-the-board cut in IHSS hours and the termination or cut in IHSS hours for recipients based on their functional index score. In place of the 20 percent cut CDSS will implement a temporary 8 percent cut in July 2013. This reduction in hours will be accomplished by extending the current 3.6 percent across the board cut that was scheduled to end June 30, 2013, but instead will be continued and increased by 4.4 percent on July 1, 2013. The 8 percent cut will be reduced to 7 percent in July 2014.

The DDS initially referenced the 20 percent reduction in IHSS' hours in the November 2011 Estimate, with the fiscal impact to be determined. As CDSS was enjoined from implementing the 20 percent reduction the fiscal impact was not included in the subsequent 2012 May Revision. With CDSS' settlement agreement and the proposal to increase the current reduction in IHSS hours from 3.6 percent to 8 percent, DDS is working closely with CDSS to determine the impact to the 51,000 DDS consumers who are recipients of IHSS.

ASSOCIATION OF REGIONAL CENTER AGENCIES
ANALYSIS OF TRAILER BILL AB 89
JUNE 11, 2013

The following is a summary of the Trailer Bill (TB) for developmental services, AB 89. This summary highlights the provisions of the TB, but does not include all the additions and changes.

Section 1 – The RC's clients' rights advocate shall be notified of, and may participate in, all IPP meetings of DC residents when the assessment is to be discussed. The IPP team will also be provided "relevant information from the statewide specialized resource service". Necessary services and supports not currently available in the community setting, which would enable the client to move into the community, shall be considered for development pursuant to community placement planning and funding.

Section 2 – Deletes: "For the Lanterman Developmental Center, the use of department employees is in effect for up to two years following the transfer of the last resident of the Lanterman Developmental Center, unless a later enacted statute deletes or extends this provision"; thus eliminating the two-year time limit.

Section 3 – Regarding the public meetings to discuss the POS disparity data: RCs shall inform DDS of the scheduling of the public meetings 30 days prior to the meeting, post the notice on the RC's website, and send the notice to "individual stakeholders and groups representing underserved communities in a timely manner." DDS shall post the RCs' meeting notices on the DDS website.

Section 4 – DDS and the RCs shall "collaborate to determine the most appropriate methods to collect and compile meaningful data in a uniform manner, as specified in Section 4519.5, related to the payment of copayments and coinsurance by each regional center." That means the insurance copayment and coinsurance payment data will need to be displayed by ethnicity, by age group, by disability, and by primary language.

Section 5 – Various changes regarding IMDs:

- Effective July 1, 2013, RCs are prohibited from placing clients in an IMD regardless of the availability of federal funding, except for emergencies.
- Prior to any admission, the planning team shall, to the extent feasible, consider options from the statewide specialized resource service.
- Clients' rights advocates shall be notified of each admission and IPP meeting and they may attend those meetings unless the client objects.

Section 6 – A new section which allows placement of a client under the age of 21 into an IMD for longer than 180 days if certain conditions are met.

Section 7 – A new section that allows RCs to pay for copayments and coinsurance for clients if certain conditions are met (Note: this is for *any* service covered by insurance, not just ABA services).

- If the family's, or adult client's, gross income is less than 400% of the federal poverty level (FPL).
- If payment is necessary to ensure the client receives the service.
- The family or adult client must self-certify their income by providing certain documentation.

- If there is an "extraordinary event" or a "catastrophic loss," RCs may pay the copayments and coinsurance for families and adult clients whose income is greater than 400% of FPL.

RCs **cannot** pay insurance deductibles.

Section 8 – Eliminates the sunset provision making the AFPF permanent.

Section 9 - Habeas corpus writs (and petitions) for placed clients **must** be sent to the clients' rights advocate by the court clerk. RCs have to provide copies of the latest assessment to all parties. A person who is unable to provide for themselves can be released if "a regional center or a willing responsible person or other public or private agency is able to provide for him or her."

Section 10 – A new section enumerating the rights of an adult client requesting release from a DC.

Section 11 – 6500-type placements (but not into DCs or "state-operated community facilities") are permitted and the commitment expires after a year. It can be renewed indefinitely.

Section 12 – Adds "any licensed community care facility, as defined in Section 1504, or any health facility, as defined in Section 1250, other than a developmental center or state-operated facility" as an optional placement for clients deemed to be a danger to themselves or others.

Section 13 – Sets "the fall of 2014, and no later than December 31, 2014" as the closure date for Lanterman DC.

Section 14 – Sets the timeline for and describes the process for developing the plan for the future of the DCs in California.

Excerpt of ARCA Tracked Bills

as of Monday July 8, 2013

Attachment #5

AB 900 (Alejo, D) Medi-Cal: Reimbursement: Distinct Part Nursing Facilities.
Current Text: Amended 6/25/2013 Location: 8/12/2013-S. APPR.
Calendar: 8/12/2013 10 a.m. - John L. Burton Hearing Room (4203) SENATE APPROPRIATIONS, DE LEóN, Chair

Summary: Current law requires, except as otherwise provided, Medi-Cal provider payments to be reduced by 1% or 5%, and provider payments for specified non-Medi-Cal programs to be reduced by 1%, for dates of service on and after March 1, 2009, and until June 1, 2011. Current law requires, except as otherwise provided, Medi-Cal provider payments and payments for specified non-Medi-Cal programs to be reduced by 10% for dates of service on and after June 1, 2011. This bill would instead require that this payment reduction not apply to skilled nursing facilities that are a distinct part of a general acute care hospital, for dates of service on or after July 1, 2013, subject to necessary federal approvals . This bill contains other related provisions

AB 1089 (Calderon, Ian D) Foster Care.
Current Text: Amended 4/18/2013, 6/17/2013 Location: 6/17/2013-S. HUM.S.

Summary: Would specify the transfer procedures that would apply when children who have an order for foster care, are awaiting foster care placement, or are placed in out-of-home care, and other consumers of regional center services and supports, transfer between regional centers or local education agencies, or from a local education agency to a catchment area where there are no services, as specified. The bill would require the sending regional center to notify the receiving regional center of the relocation, as specified. By imposing new duties and a higher level of service on local entities, the bill would impose a state-mandated local program. This bill contains other related provisions and other existing laws.
Position: Oppose (Position Letter)

AB 1041 (Chesbro D) Developmental Services: Employment First Policy.
Current Text: Introduced: 2/22/2013, Amended: 6/27/2013 Location: 6/27/2013-S. APPR.
Calendar: 8/12/2013 10 a.m. - John L. Burton Hearing Room (4203) SENATE APPROPRIATIONS, DE LEóN, Chair

Summary: Would require each regional center planning team, when developing an individual program plan for a transition age youth or working age adult, to consider a specified Employment First Policy. The bill would also require regional centers to ensure that consumers, beginning at 16 years of age, and, where appropriate, other specified persons, are provided with information about the Employment First Policy, about options for integrated competitive employment, and about services and supports, including postsecondary education, available to enable the consumer to transition from school to work, and to achieve the outcomes of obtaining and maintaining integrated competitive employment. This bill contains other related provisions and other existing laws.
Position: Support, if amended

AB 1112 (Ammiano D) Developmental Services: Habilitation.
Current Text: Amended: 4/18/2013 Location: 7/1/2013-S. APPR. SUSPENSE

Summary: Would require that those providers of individualized and group-supported employment services be paid the rates provided in existing law or rates established by the Department of Rehabilitation, whichever are greater. The bill would also require that a program provider, under certain circumstances, be paid a fee of $700 for employment preparation services provided to a consumer prior to placement in an integrated job.
Position: Support (Position letter)

Excerpt of ARCA Tracked Bills

as of Monday July 8, 2013

AB 1232- (V. Manuel Pérez D) Developmental Services: Quality Assessment System.
Current Text: Enrollment: 7/3/2013 Location: 7/3/2013-A. ENROLLMENT

Summary: Current law requires the State Department of Developmental Services to implement a quality assessment system, as prescribed, to enable the department to assess the performance of the state's developmental services system and to improve services for consumers. The department is required to contract with an independent agency or organization that is, in part, experienced in designing valid quality assurance instruments, to implement the system. This bill would require the quality assurance instrument to assess the provision of services in a linguistically and culturally competent manner and include an outcome-based measure on issues of equity and diversity. This bill would require the independent agency or organization the department contracts with to be experienced in issues relating to linguistic and cultural competency.

SB 126 (Steinberg D) Health Care Coverage: Pervasive Developmental Disorder or Autism.
Current Text: Amended: 6/15/2013 Location: 6/15/2013-A. APPR.
Calendar: 6/15/2013 1:30 p.m. - State Capitol, Room 4202 ASSEMBLY HEALTH, PAN, Chair

Summary: Existing law requires health care service plan contracts and health insurance policies to provide benefits for specified conditions, including coverage for behavioral health treatment, as defined, for pervasive developmental disorder or autism, except as specified. These provisions are inoperative on July 1, 2014, and are repealed on January 1, 2015. This bill would extend the operation of these provisions until July 1, 2019, and would repeal these provisions on January 1, 2020. By extending the operation of provisions establishing crimes, the bill would impose a state-mandated local program. This bill contains other related provisions and other existing laws.
Position: Support (Position Letter)

SB 137 (Emmerson R) Developmental Services: Regional Centers.
Current Text: Introduced: 1/28/2013 Location: 7/3/2013-A. APPR. SUSPENSE

Summary: Existing law requires a regional center that provides support and services to individuals with developmental disabilities to include specified information on its Internet Web site for the purpose of promoting transparency and access to public information that includes specified information. This bill would require that information to include specified information about payments to vendors and to nonprofit housing organizations.

SB 158 (Correa D) Autism Services: Demonstration Program.
Current Text: Amended: 5/28/2013 Location: 7/3/2013-A. APPR.

Summary: Would authorize, until January 1, 2019, the establishment of a demonstration program that would be known as the Regional Center Excellence in Community Autism Partnerships (RE CAP) program to provide improved services, supports, interventions, and other resources to assist individuals with autism spectrum disorders, and their families, who are regional center consumers and who reside in underserved communities, as specified.
Position: Support (Position Letter)

SB 208 (Lara D) Developmental Services: Request for Proposals.
Current Text: Amended: 5/28/2013 Location: 7/2/2013-A. HUM. S.

Summary: Current law authorizes the regional center to, among other things, solicit an individual or agency, by requests for proposals (RFPs) or other means, to provide needed services or supports that are not available to achieve the stated objectives of a consumer's IPP. This bill would require a request for proposals that is prepared

by a regional center for consumer services and supports to include a section on issues of equity and diversity, as specified.

SB 367 (Block D) Developmental Services: Regional Centers: Cultural and Linguistic Competency.
Current Text: Amended: 5/28/2013 Location: 5/30/2013-A. HUM. A.

Summary: Current law requires the governing board of a regional center to satisfy specified requirements, including annually reviewing the performance of the director of the regional center, and providing necessary training and support to board members. This bill would require that this training and support include issues relating to linguistic and cultural competency, and would require each regional center to post on its Internet Web site information regarding the training and support provided.
Position: Oppose (Position Letter)

SB 468 (Emmerson R) Developmental Services: Statewide Self-Determination Program.
Current Text: Amended: 5/28/2013 Location: 6/17/2013-A. HUM. S.

Summary: Would require the State Department of Developmental Services, contingent upon approval of federal funding, to establish and implement a state Self-Determination Program, as defined, that would be available in every regional center catchment area to provide participants and their families, within an individual budget, increased flexibility and choice, and greater control over decisions, resources, and needed and desired services and supports to implement their IPP, in accordance with prescribed requirements. The statewide program would be phased in over 3 years, initially serving up to 2,500 regional center consumers, and thereafter would be available on a voluntary basis to all regional center consumers.

SB 555 (Correa D) Developmental Services: Regional Centers: Individual Program Plans and Individualized Family Service Plans.
Current Text: Amended: 6/20/2013 Location: 6/20/2013-A. HUM. S.

Summary: Would require a regional center to make every reasonable effort to communicate in the family's native language during the IFSP planning process and to provide a copy of the IFSP in the family's native language. The bill would require the family's native language to be documented in the IFSP. The bill would similarly require a regional center to make every reasonable effort to communicate in the consumer's native language, or, when appropriate, the native language of his or her family, legal guardian, conservator, or authorized representative, during the IPP planning process and to provide a copy of the IPP in the native language of the consumer or his or her family, legal guardian, conservator, or authorized representative, or both. This bill contains other related provisions and other existing laws.
Position: Watch

SB 579 (Berryhill R) Developmental Services: Oversight Efficiency and Quality Enhancement Model.
Current Text: Amended: 4/9/2013 Location: 5/3/2013-S. 2 YEAR

Summary: Would, commencing January 1, 2014, and to the extent that funds are made available, establish a 4 1/2 year Oversight Efficiency and Quality Enhancement Model pilot project in specified regional center catchment areas to implement a unified oversight and quality enhancement process, as specified, shifting the oversight of the service providers from the Community Care Licensing Division of the State Department of Social Services and the Licensing and Certification Division of the State Department of Public Health to the department and the pilot regional centers. This bill contains other related provisions.
Position: Support (ARCA-Sponsored)

ARCA
ASSOCIATION OF REGIONAL CENTER AGENCIES
915 L Street, Suite 1440 • Sacramento, California 95814 • 916.446.7961 • Fax: 916.446.6912

April 19, 2013

Senator Bill Emmerson
State Capitol, Room 5082
Sacramento, CA 95814-4900

RE: Questions Regarding SB 468

Honorable Senator Emmerson:

The Association of Regional Center Agencies (ARCA) represents the network of regional centers that advocate on behalf of and coordinate services for California's over 250,000 people with developmental disabilities.

ARCA and its member regional centers have been long-time supporters of the concept of self-determination as a means to effectively provide individually-tailored services to meet the needs of Californians with developmental disabilities. Our organization sees self-determined services as a means to address purchase of service disparities impacting traditionally underserved and underrepresented racial and ethnic communities and as a critical step toward equalizing access to services. For these reasons, we take this legislation very seriously and remain supportive of the concept of the expansion of self-determined services to more individuals in California's developmental services system, but feel there remain several questions related to SB 468 in its current form:

- If an individual chooses to utilize the services of an Independent Facilitator, it is unclear what the ongoing role of the regional center service coordinator is in development of the individual program plan or securing of needed services.
- As the outlined self-determination program is voluntary, there would need to be a targeted effort to reach out to traditionally underserved and underrepresented communities to ensure equal access to participation in this program.
- It is unclear how cost neutrality in the aggregate will be measured or achieved given increased costs associated with regional center service coordination, training, quality assurance, and accounting functions as well as the new cost of a financial management service. An additional driver of costs could be the inclusion of a risk pool or emergency fund to allow individuals with unanticipated service needs to continue to participate in the program.
- Additional clarity is needed on what assessment tools or procedures will be used to establish individual budgets in a fair and equitable manner.
- Additional consideration is needed to determine whether it would be most fiscally and programmatically sound to seek an amendment to the home and community-based waiver or to the 1915(i) state plan amendment that is anticipated to be approved by the Centers for Medicare and Medicaid Services in the near future.
- The bill presents an aggressive timeline for implementation and does not allow sufficient time for training and preparation on the part of regional centers, which took approximately one year to complete in the 1998 self-determination pilot program.
- The advisory committee comprised of individuals appointed by regional centers, the Office of Clients' Rights Advocacy, and the Area Board has an ill-defined role in implementation of the presented program.

Additional information is needed to fully understand the roles and responsibilities of these local committees.

The self-determination project that began at five regional centers in 1998 demonstrated that this model and its associated person-centered planning process have the potential to be powerful tools in identifying and addressing unmet needs in traditionally underserved geographic and racial or ethnic communities. In order to avoid perpetuating any identified service inequities arising from racial, ethnic, or geographic factors, an individual budgeting methodology must be carefully developed which is based on individual characteristics and needs rather than historical purchase of service spending. Additionally, the array of services available under a self-determination model must be more flexible and responsive to the needs, lifestyles, and preferences of individuals and their families in order to limit barriers to accessing needed services. An overarching goal of the expansion of self-determined services in California should be the equalization of access to services for individuals.

In order for self-determination to expand and ultimately be a service option available to all Californians with developmental disabilities, it must be financially sustainable. Ahead of the state making a commitment to this program in any particular form, there must be extensive dialogue with the Centers for Medicare and Medicaid Services to ensure that all requirements for federal funding are met in the authorizing legislation. As regional centers have worked tirelessly to secure federal funding for its existing programs, California cannot afford to allow its passion for this model to get ahead of this essential step.

SB 468 proposes the single largest change to the regional center system in more than a decade. As such, additional time is needed to ensure that a broad group of stakeholders including self-advocates has an adequate opportunity to offer input into the development of the program. The pace of the legislative process should not dictate the timeframe for receipt and consideration of thoughtful input from a variety of interested parties. ARCA respectfully requests that SB 468 be put on a two-year bill track in order to enable sufficient time for necessary dialogue and collaboration.

ARCA appreciates the opportunity to comment on SB 468 and is grateful that the issue of expanding California's use of self-determined services has been brought to the attention of the Legislature. ARCA looks forward to continuing to work towards the implementation of such a program to address unmet needs of Californians with developmental disabilities in creative and person-centered ways.

If you have any additional questions regarding our position, please do not hesitate to contact Amy Westling in our office at awestling@arcanet.org or (916) 446-7961.

Sincerely,

/s/

Eileen Richey
Executive Director

Cc: Members, Senate Human Services Committee
Mareva Brown, Chief Consultant, Human Services Committee
Joe Parra, Senate Republican Policy Consultant
Brendan McCarthy, Consultant, Senate Committee on Appropriations
Catherine Blakemore, Executive Director, Disability Rights California
Evelyn Abouhassan, Senior Legislative Advocate, Disability Rights California
Connie Lapin, Autism Society of Los Angeles

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915 L Street, Suite 1440 · Sacramento, California 95814 · 916.446.7961 · Fax: 916.446.6912

ARCA

June 7th, 2013

Senator Lou Correa
State Capitol, Room 5061
Sacramento, CA 95814

RE: SB 158 (amended 2013-05-28) - Support

Honorable Senator Correa:

The Association of Regional Center Agencies (ARCA) represents the network of regional centers that advocate on behalf of and coordinate services for California's over 250,000 people with developmental disabilities.

On behalf of ARCA, I wish to express our support for SB 158, your bill which would permit the Department of Developmental Services to establish the Regional Center Excellence in Community Autism Partnerships demonstration program. Were it established, the opportunity to work with California State University or University of California campuses – particularly luminaries of the developmental disabilities research world such as the UC Davis MIND Institute – could be a boon to regional centers.

Excellent counsel can come from many sources. The regional centers remain firmly committed to the equitable and appropriate provision of services. To have an additional source of input for regional centers to choose to draw on can only serve to assist them in their mission.

If you have any additional questions regarding our position, please do not hesitate to contact Daniel Savino in our office at dsavino@arcanet.org or (916) 446-7961.

Sincerely,

/s/Eileen Richey

Executive Director

Cc: Myesha Jackson, Chief Consultant, Assembly Human Services Committee

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ASSOCIATION OF REGIONAL CENTER AGENCIES
915 L Street, Suite 1440 • Sacramento, California 95814 • 916.446.7961 • Fax: 916.446.6912

June 11, 2013

Assembly Member Ian Calderon
P.O. Box 942849, Room 5150
Sacramento, CA 94249-0057

RE: Opposition to AB 1089

Honorable Assembly Member Calderon:

The Association of Regional Center Agencies (ARCA) represents the network of regional centers that advocate on behalf of and coordinate services for California's over 250,000 people with developmental disabilities. According to recent data from the Department of Developmental Services, regional centers serve over 5,000 foster children, including over 2,000 in their Early Start program for children from birth through their third birthday. Some regional centers report that approximately 10% of their Early Start caseload is comprised of children in the foster care system.

ARCA understands that many of the same factors that lead to developmental delay and disability also may be precursors to involvement with the foster care system, including maternal drug use and a lack of prenatal care. Foster children are oftentimes confronted with greater levels of instability, and thus more transitions, than children who reside with their biological families. It is incumbent upon each agency that comes into contact with these children to work together to ensure a continuity of care for them.

The frequent movement of foster children, particularly those under the age of three, requires the coordination of several local agencies in order to ensure the continuity of services. County child welfare agencies must notify the regional center of the planned or completed move from one area to another. As federal law dictates that a child's educational representative must consent to changes in the Individual Family Service Plan, local family courts must transfer educational rights from one party to another when a move takes place. Regional centers must coordinate with one another to arrange vendored services in the new community and to transfer case management responsibilities. Thus, the actions of other agencies impact the pace at which regional centers can initiate services in a child's new community. Any proposed legislative solution must outline the roles and responsibilities of each involved agency, which Assembly Bill 1089 does not do. Rather, AB 1089 places significant workload requirements and fiscal pressures on regional centers without fully outlining the role of child welfare agencies and the local courts in ensuring the smooth transition of children from one area to another.

Regional center case management is a time intensive process that involves assessment of needs, identification of services, and the careful matching of families with service providers that they feel most comfortable with. What distinguishes regional center services from those provided by educational agencies is the in-home provision of services by vendored service providers. This allows for improved customization of services but requires a greater investment in time upfront to ensure a strong match between a family and a vendor. Foster children deserve this level of planning and care, and this will not be possible given the short timelines associated with this bill.

Regional centers recognize that all children, particularly those in the Early Start program, benefit from the streamlining of transfer procedures when a move is made between regional center catchment areas. In

that light, regional centers have been working to revise the transfer process, including obtaining approval from the Department of Developmental Services to reduce administrative barriers to speedy transfers. Regional centers remain committed to ensuring that children receive the services that they need with as little delay as possible.

As this bill has also been referred to the Senate Judiciary Committee, ARCA will be asking that Committee to evaluate the bill in light of concerns related to: 1) the responsibility of the educational rights holder; 2) potential HIPAA violations resulting from the bill's list of parties that can request records; 3) the impact of the lack of a standardized process for notification of regional centers of a child's relocation; and 4) the effect of the bill's unachievable timelines on the volume of costly appeals and complaints.

ARCA appreciates the opportunity to comment on AB 1089 and looks forward to continuing to work towards the streamlining of transfer procedures for all children served by regional centers.

If you have any questions regarding our position, please do not hesitate to contact Amy Westling in our office at awestling@arcanet.org or (916) 446-7961.

Sincerely,

/s/Eileen Richey

Executive Director

Cc: Members, Senate Human Services Committee
Mareva Brown, Chief Consultant, Human Services Committee
Joe Parra, Senate Republican Policy Consultant
Brendan McCarthy, Consultant, Senate Committee on Appropriations
Angie Schwartz, Policy Director, Alliance for Children's Rights
Brian Capra, Senior Staff Attorney – Children's Rights, Public Counsel
Eric Gelber, Assistant Director, Legislation & Regulations, Department of Developmental Services

Attachment #9

ASSOCIATION OF REGIONAL CENTER AGENCIES
915 L Street, Suite 1440 · Sacramento, California 95814 · 916.446.7961 · Fax: 916.446.6912

ARCA

June 13th, 2013

Senator Marty Block
State Capitol, Room 4090
Sacramento, CA 95814

RE: SB 367 - Oppose

Honorable Senator Block:

The Association of Regional Center Agencies (ARCA) represents the network of regional centers that advocate on behalf of and coordinate services for California's over 250,000 people with developmental disabilities.

California's regional centers are committed to ensuring that their board members and leaders are eminently capable of meeting the diverse linguistic and cultural needs of the individuals and families they serve. And Welfare and Institutions Code §4646.5(a)(1) **already** mandates that the individual program plan process – which is how regional centers provide services – "shall reflect awareness of, and sensitivity to, the lifestyle and cultural background of the consumer and the family." However, a broader issue requires us to oppose this bill.

From a legal standpoint, regional centers are several things. As nonprofit public benefit corporations, they are subject to Corporations Code §§5110-6910. Under IRS rules, their tax status is as 501(c)(3) nonprofits. And by the nature of their relation to the State, they are contractors.

This bill, therefore, singles out an exceedingly narrow band of corporate entities for a very precise set of regulations that not only affects their board members, but dictates internal employee review processes. Three particular points arise from this.

First, this bill implies a problem of cultural and linguistic competence exists amongst the board members and directors of a specific type of entity. Yet these entities inherently draw people who are committed to the needs of those whom society often marginalizes. Serving Californians with developmental disabilities is not a task undertaken without a sharp awareness of cultural and linguistic needs.

This leads to the second point. If the Legislature wishes to proscribe board training, or how chief executive officers should be evaluated, it seems reasonable that such regulations be applied to all nonprofit public benefit corporations, 501(c)(3) nonprofits, or agencies under contract with the State.

Third, were this bill to become law, executive directors would be put in the most regrettable circumstance of being evaluated based on a non-standardized metric. It does not require an overabundance of imagination to conceive of two sensible, trained, collegial professionals disagreeing over what, exactly, is meant by "providing regional center services that are linguistically and culturally appropriate." It is even less of a stretch to imagine an individual with hostile intentions pursuing litigation. The ambiguous nature of this practically ensures directors' non-compliance – or at least someone arguing that is the case.

If you have any additional questions regarding our position, please do not hesitate to contact Daniel Savino in our office at dsavino@arcanet.org or (916) 446-7961.

Sincerely,

/s/Eileen Richey

Executive Director

Cc: Assemblymember Mark Stone, Chair, Assembly Human Services Committee
Members, Assembly Human Services Committee
Myesha Jackson, Chief Consultant, Assembly Human Services Committee
Mary Bellamy, Consultant, Assembly Republican Caucus
Lou Vismara, M.D., Policy Consultant, Office of the Senate President Pro Tempore

ARCA

A brief note on Early Start...

...and what comes next!

What happened?

Yesterday evening the Budget Conference Committee did **not** restore Early Start funding. The Committee took, reluctantly, the Governor's view of California's financial state. The budget's next stop will be the floors of both houses. At this point, the chances of Early Start being restored in the budget are slim to nil.

Committee members made it obvious that this issue - and others - will remain alive, particularly when next year's budget is being crafted. In the run-up to the Committee starting its business, Senator Leno (chair of the Committee) stated that by taking the Governor's estimates of revenues, the Legislature will be better positioned to see more restorations included in next year's budget, to be released in January. And both Senator De León and Assemblymember Blumenfield said they were accepting this reluctantly.

So what's next?

We start by thanking Assemblymember Holly Mitchell. Only through her advocacy and leadership in the Assembly Budget Subcommittee on Health and Human Services were we able to see the possibility of restoration put forward. Thus, we offer our **heartfelt thanks and appreciation** for her commitment to ensuring that infants and children with developmental delays receive the prompt early interventions needed. She understands as well as any advocate that these actions make such profound and life-changing difference for them and their families.

Second, we are not giving up! There's a lot of work to be done to ensure that the Legislature and the Governor do right by Early Start in the January budget, and we will keep you informed of what comes... and call you to action again! Without your phone calls, emails, letters, and tireless advocacy, we wouldn't have gotten this far. But next time, we're going farther. California's infants and children can't wait...

Attachment #11

A SERVICE OF THE CALIFORNIA HEALTHCARE FOUNDATION

CaliforniaHealthline
The Daily Digest of News, Policy & Opinion

New Budget Makes 'Major Change' to Lanterman Act, Autism Policy

by David Gorn, California Healthline Sacramento Bureau

Thursday, June 20, 2013

Jennifer McNulty is a Ventura County mom whose son has autism. He has come a long way from his early days of aggression and communication problems.

McNulty credits, in part, a treatment called applied behavioral analysis -- or ABA therapy -- for her son's progress. "My son Kyle is 16 now, and ABA therapy has worked for him. Now we are hopeful my son can gain enough skills to the point where he can get a job."

Getting ABA therapy just got a little harder for the McNultys and many other families affected by autism.

Changes for ABA Coverage

A small, obscure provision in the California budget bill passed last week is the culmination of a number of changes and limitations in autism treatment recently made by the state.

The provision deals with regional centers, the private not-for-profit companies that operate 21 regional centers under contract with the state, to provide or coordinate services for Medicaid beneficiaries with developmental disabilities, including autism.

The Lanterman Developmental Disabilities Services Act, passed in 1969, requires regional centers to pay for medically necessary treatments, including ABA therapy. Last year, in order to shift the funding burden on regional centers, the Legislature passed SB 946 by Sen. Darrell Steinberg (D-Sacramento), which required private insurers to pay for the service, saving money for the state.

From Jennifer McNulty's perspective, before SB 946 passed last year there were no deductibles or copays to even consider. Now that private insurers need to contribute, that has changed.

The budget plan passed by the Legislature last week prohibits regional centers from paying the copayments or deductibles for ABA therapy, except in cases of demonstrable need. Ultimately, the provision means that people with private insurance will have to pay the deductible and copay.

This latest change may be the tipping point for Jennifer McNulty's family, she said, because it's already a financial stretch for the self-employed parents to pony up big money for insurance.

"My husband and I have our business, and we pay almost $1,500 a month for a PPO, and we can barely afford that," McNulty said. "We sold our family home two years ago. Now we're looking at paying another $7,500 a year, on top of that [in copays and deductibles]. We can't do that." So, she said, "It does affect me and my family pretty heavily."

Her looming choice is to drop her son's private PPO coverage and enroll him in Medi-Cal -- which, of course, will shift expense from private insurance to the state.

"It's strange. It's as if [the state is] discriminating against families with private coverage," McNulty said. "I've heard people right and left saying, 'Well, no more ABA [therapy] for us, because we can't afford the copays.'

"I don't see what else to do," she said. "I'm definitely considering dropping coverage."

'Never Been an Assault Like This on Lanterman Act'

State health officials said this is simply an instance of cost-cutting by the Legislature and governor.

All inquiries to state officials for this story were referred to the Department of Developmental Services, which responded with a short written statement. According to the DDS statement, if clients have trouble paying their copays, regional centers are allowed to help, depending on the clients' demonstrated financial need.

The DDS statement said, in part:

"The current budget trailer bill establishes uniform guidelines and authorizes regional centers to pay health insurance co-payments for services on behalf of lower income families or others who demonstrate hardship. Subsequent to enactment of the budget trailer bill, DDS will provide guidance to the regional centers regarding implementation of the authority to pay co-payments for low-income families or others who demonstrate hardship."

In the vernacular, this is called "means-testing."

That kind of means-testing has never been part of the Lanterman Act, according to Rick Rollens, a legislative adviser to ARCA, the Association of Regional Center Agencies.

"This is an historic shift in the Lanterman Act," Rollens said. "It's a major shift. It's the first time when a major service provision is now being means-tested. Historically, this has not been an issue."

This is how the rest of the statement from DDS describes the shift: "The Lanterman Act requires regional centers to identify and pursue all possible sources of funding for consumer services, including private insurance. Recent legislation confirmed the responsibility of insurers and health plans to pay the cost of behavioral health treatment, including ABA, for individuals with autism."

The budget trailer bill language simply includes copays and deductibles as part of that funding source, DDS officials said.

"They're changing the Lanterman Act," Rollens said. "The Legislature and governor, they have the authority to amend it anytime they want. But what has happened here is tragic and didn't have to happen. What this language does is it limits access to services to a certain class of people."

The state has estimated it will save $80 million a year from requiring insurers and health plans to pay for ABA treatments, though the consumer percentage of that is much smaller, an estimated 10% of the total savings.

"There has never been an assault like this on the Lanterman Act," Rollens said. "The means-testing opens the door for other attempts, for means-testing other services. And it gives the bean-counters in the state the ability to ratchet down on means testing." They can lower the aid threshold at any time, he said.

"It is shameful for the Legislature and the governor to do this," Rollens said. "I'm sure Frank Lanterman is turning over in his grave, as we speak."

Lanterman Act Intended ' To Keep Kids Out of Institutions'

According to Kristin Jacobson, president of Autism Deserves Equal Coverage, a not-for-profit autistic children's advocacy group, the Lanterman Act has remained relatively unchanged since its inception.

In part, that's because it's cost-effective to have autistic children grow up to be "less dependent on the state and more productive members of society," she said.

"One of the main purposes of the Lanterman Act is to keep kids out of institutions and [move them] into homes and into the community," Jacobson said. "It allows us to keep those individuals in society. It's very, very expensive to institutionalize these kids."

Autistic children who don't receive ABA therapy can end up as a lifetime drag on the Medi-Cal system, according to Jacobson. "You're looking at $2 to $3 million in costs over someone's lifetime because they don't get treatment," she said.

Judy Mark, government relations chair for the Autism Society of Los Angeles, said the lowest-income and high-income families won't be as affected by the new prohibition on deductibles and copays.

"Working individuals, the people who did the right thing and bought health care insurance, those are the people who will be most affected," Mark said. "Low-income families will still get their ABA therapy. But the middle-class folks, or the lower middle class, this is a multi-thousand-dollar hit they can't afford."

Mark said notices about the change could start going out as soon as July 1. "Lots of parents will be getting letters in the mail and wondering, 'What the heck?'" Mark said.

Other Recent Shifts in State's Autism Coverage

The question of payment for ABA therapy in the regional centers is just one of several recent changes in autism coverage in California.

• The proposal to include ABA therapy as a benefit under the federally funded optional Medi-Cal expansion starting in 2014 was dropped.

• In their May budget proposal, state lawmakers allocated $50 million (or $100 million, if the federal matching money was considered) for one fiscal year of ABA therapy for Medi-Cal patients, which would have begun in July 2013. That provision was struck from the budget trailer bill in June.

• In 2009, the state eliminated funding for the Early Start program that affected about 17,000 developmentally delayed and at-risk children, including many kids who had early signs of autism, according to Jacobson.

• In September 2012, the state passed SB 946, requiring private insurers to pay for ABA treatment. The bill also provided for ABA therapy for children in the Healthy Families program. An estimated 10,000 of the 860,000 children in Healthy Families may have qualified for ABA therapy. But shortly after SB 946 passed, the state announced it was eliminating the Healthy Families program and moving those children to Medi-Cal managed care plans.

State health officials at the time assured lawmakers that there would be no gaps in continuity of care and that benefits would follow the children, but that has turned out not to be the case for an estimated 500 Healthy Families children who started to

receive ABA therapy. Those children have been referred to the regional centers, and an estimated three-fourths of them are expected to fail to qualify for ABA therapy at the centers.

'Worse Off Now Than We Were a Year Ago'

McNulty can't believe what has happened to autism therapy policy in the past year.

Less than a year ago, she said, it seemed that passage of SB 946 was a great victory for the autism community.

"I was thrilled at the time," McNulty said, "because I thought it would make it a lot easier for families to get their insurance to pay, and it took [financial] pressure off the state."

It seemed like a kind of watershed moment, that policymakers finally understood that children needed these autism treatments, she said.

"None of us ever imagined the Brown administration would put this language in place to undermine families. I couldn't believe it," McNulty said. "There has to be a legal remedy for this. Because this just isn't fair."

Mark summed it up this way: "All of this basically says kids with autism are not entitled to services," she said. "It's incredibly short-sighted."

Mark said autism treatment, coverage and policy now are going to be big topics of conversation in Sacramento. The passage of SB 946 last year ended up not meaning much, after all, she said.

"The reason there's so much doom and gloom in our community right now is because we're worse off now than we were a year ago," Mark said. "It's a worst-case scenario."

Attachment #12

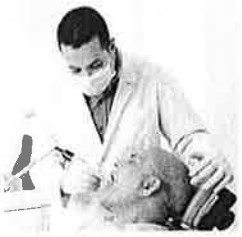
A SERVICE OF THE CALIFORNIA HEALTHCARE FOUNDATION

CaliforniaHealthline
The Daily Digest of News, Policy & Opinion

Medi-Cal Dental Coverage Partially Restored

by Mari Edlin, California Healthline Regional Correspondent

Thursday, June 13, 2013



Legislative leaders and Gov. Jerry Brown (D) agreed on a budget plan this week that restores partial funding for dental services in Medi-Cal, California's Medicaid program.

Northern California legislators and dental providers have been at the forefront of a campaign over the past four years to get dental coverage for Medi-Cal adults restored. For many advocates and stakeholders, this week's budget news was considered a partial victory. Although not the complete restoration of $131 million sought, the state plans to spend about $16.9 million this fiscal year and $77 million next year on dental coverage. The money will provide preventive care, dental restorations and full dentures for adult beneficiaries of Medi-Cal.

Restoring adult coverage in Denti-Cal was considered a priority for California Senate President Pro Tempore Darrell Steinberg (D-Sacramento).

"Dental care is so essential to physical health and employability," Steinberg said. "The current alternatives are gum disease and use of hospital emergency rooms at the expense of taxpayers, which is unacceptable."

Lindsey Robinson, a pediatric dentist in Grass Valley and president of the California Dental Association, called the agreement "a significant achievement in the effort to restore all adult Denti-Cal services and a step in the right direction to address the oral health care crisis facing millions of Californians."

Budget Woes Led To Denti-Cal Cuts

In 2009, California eliminated nonemergency dental benefits from its Medicaid program as a way to save more than $100 million annually. Nearly three million adults lost coverage for cleanings, exams, gum treatment, crowns, root canal procedures, dentures and fillings.

There are a few exceptions: Women age 21 and older who are pregnant and those who live in licensed skilled nursing facilities or licensed intermediate care facilities still can access basic dental care through Medi-Cal.

After the cuts were implemented, adult dental expenditures decreased from $114 million in the second quarter of 2009 to $14.2 million during the same time period a year later, as reported in a 2011 issue brief from the California HealthCare Foundation, "Eliminating Adult Dental Benefits in Medi-Cal." CHCF publishes *California Healthline*.

Use of adult dental services fell from 35% of Medi-Cal beneficiaries in 2008-2009 to 12% in 2009-2010, according to the brief.

Community Steps In

Recognizing the access issues resulting from cuts in coverage in 2009, the California Dental Association launched semi-annual, two-day free dental clinics throughout the state.

At one such free clinic in San Jose last month, 1,700 dental professionals and volunteers provided $1.6 million in charitable dental services -- including an estimated 2,300 tooth extractions and 11,000 dental procedures -- to 2,200 patients, according to CDA officials.

"The number of patients highlighted the enormous problem we have in California in providing preventive dental care to our population," said Ken Wallis, secretary of CDA and a solo practitioner in Santa Clara.

Wallis, who does not regularly treat Denti-Cal beneficiaries, said he considers the clinics -- called CDA Cares -- an opportunity to offer pro bono services.

It was a CDA Cares event last year in Sacramento that moved Steinberg to push for dental coverage. Steinberg said he was overwhelmed by the number of people lined up around the block for dental care, many with advanced oral disease.

Looking back at the state's budget cuts over the past five years, Steinberg said elimination of adult dental services stands out for him the most.

Hospitals Support Basic Dental Care

Highland Hospital in Oakland, part of Alameda Health System, offers adult dental services through its main dental clinic and drop-in emergency dental clinic, which coordinates with the hospital's emergency department to provide surgery coverage for dental problems resulting from trauma and life-threatening infections.

Averaging 35 patients a day, up from 25 before 2009, clinic staffers check vital signs, perform X-rays, make diagnoses and provide treatment. Some patients wait up to five hours to be seen, clinic officials said.

According to hospital officials, dental visits to the emergency department doubled between 2007 and 2011 and dental emergencies in the clinic increased by 70% between 2008 and 2011, the most recent statistics available.

Anthony Mock, chief of general dentistry for Alameda Health System and director of the dental clinic at Highland Hospital, said the immediate increase in utilization of both the emergency department and the emergency clinic was due to elimination of funding for adult preventive dental care in July 2009, and possibly a decrease in providers taking Denti-Cal patients.

He estimated that if adult dental services were reinstated, the hospital could save $2 million in the emergency department and $1.7 million a year in its drop-in clinic. "And we could prevent urgent care needs from developing into emergency care," he said.

Discounted Fee-for-Service Promotes Oral Health

Dentist Ariane Terlet treats low-income adults in her private practice in Berkeley and at La Clínica de La Raza, a community health center serving residents in three East Bay counties. Terlet is La Clínica's chief dental officer.

La Clínica's Oral Health Initiative, funded by the John Muir/Mt. Diablo Community Health Fund, provides dental screenings and oral health education at health fairs, schools, senior centers and other community sites. About 35% of La Clínica's patients are Medi-Cal beneficiaries and almost all the rest are uninsured, according to Clinica officials. Patients pay on a sliding fee scale based on income.

Terlet said she is "cautiously optimistic" about the recovery of the budget dollars for adult dental care, especially in light of the bipartisan vote to restore the services last month in the Senate budget committee. Even a step toward reinstating benefits on a limited basis would suit her for now.

She recommended the state establish the position of a state dental director to ensure that California takes advantage of federal funding that could support adult dental care.

Leaving Money on the Table

"We are simply leaving federal dollars in Washington," Steinberg said.

The state lost out on approximately $134 million in federal funding when it cut Denti-Cal benefits, according to some analysts. A 2009 report funded by oral health advocates, "Eliminating Medi-Cal Adult Dental: Costs and Consequences" showed that with a multiplier effect, the cut to adult dental care cost the state more than $500 million, including loss of jobs, wages and business activity.

"The one-to-one matching federal dollars could provide basic dental benefits to three million low-income parents, seniors and people with disabilities and an additional one million adults without children at home who are newly eligible for coverage under the Affordable Care Act in 2014," said Anthony Wright, executive director of Health Access, a not-for-profit consumer advocacy group.

"Restoring dental services for adults could further promote economic recovery," Wright said. "Eliminating benefits has an impact on finding jobs, financial security and overall health.

"When you realize that the state has cut more than $15 billion worth of services over the past four years, the $131 million for adult dental care is only a small fraction," he said.

Further, Wright said, "The state is being penny-wise, penny-foolish without the services, causing adults to show up in the emergency department for more expensive procedures."

According to a report from the Pew Center on the States, more Americans are turning to hospital emergency departments for routine dental problems -- a choice that often costs 10 times more than preventive care.

In 2007, more than 83,000 people visited California hospital emergency departments for preventable dental conditions, according to the California HealthCare Foundation.

Terlet said the use of emergency departments for exacerbated dental problems that result in teeth extraction is akin to a patient going into an emergency department with a broken arm, and the only option is amputation. She noted that extractions without the benefit of restorative dental procedures can influence employability.

"We are now seeing the aftermath of four years of neglecting the oral health of adults," she said.

Lower Reimbursement Enhances Problem

Despite restoration of funding, access to care will be a problem, advocates predicted. The Legislature's 2010 decision to reduce all Medi-Cal reimbursements by 10% could make it cost-prohibitive to serve patients, according to dentists and advocates.

The lower reimbursement has not yet been implemented, but the 9th U.S. District Court of Appeals ruled that state officials can push through reductions retroactive to July 2011.

"It will be difficult for dentists to provide care at such low rates, resulting in fewer Denti-Cal participants," Wallis said. "We need more group dental practices which will make it more cost-effective to serve Medi-Cal patients."

"Combine lower reimbursement with an already underfunded program, and dentists will lose money before anyone even walks through the door," said Carrie Gordon, vice president of public policy for CDA.

Disability Rights California

California's Protection & Advocacy System
Toll-Free (800) 776-5746

8% Across-the-Board Cut to IHSS

June 2013, Pub. #5524.01

I got a notice saying that my IHSS will be cut by 8%. Does this cut apply to everyone on IHSS?

Yes. This is an 8% across-the-board cut for everyone on IHSS.

Is this a new cut?

Not entirely. Part of the cut is new. Part of the cut is already in effect. 3.6% of the cut has been in effect since about July 2011. All IHSS recipients have had this 3.6% cut since then. The new cut raises the 3.6% cut to a total cut of 8%. This is an increase of 4.4%. (3.6% + 4.4% = 8%.)

Is this cut permanent?

No. The 8% cut will last for one year. Around the middle of next year (2014) the cut will go down to 7% total. Around the middle of the year after that (2015), the cut is supposed to end.

DRC will post information on its website if things change. Check the DRC website from time to time for updates, or contact us for more information. Here's a link to the DRC website: http://www.disabilityrightsca.org/. You can reach us at the following telephone numbers: Toll Free 1-800-776-5746 / TTY 1-800-719-5798.

Can I appeal the 8% cut?

No, you cannot appeal the 8% cut unless there was a math mistake or the county did not deduct the cut from your "unmet need" first (see below).

If you appeal the 8% cut before it goes into effect you may be able to stop the cut until you have your IHSS fair hearing. This is called "aid paid pending" the hearing. **You can get aid paid pending only if you are appealing a math mistake or the county did not deduct the cut from your "unmet need" first (see below). You cannot get aid paid pending if you are appealing only the 8% cut itself.** The reason is that the 8% cut is an automatic cut that is required by law and applies to everyone.

My needs have changed. I need more hours. What can I do to get more hours?

The budget law says there are no exceptions to the 8% cut. However, if you need more hours, you can always ask the county for more hours. The county will then decide whether or not you need more hours. This is called a reassessment.

You can ask the county for more hours if your circumstances change. (You can also ask the county for more hours if the county made a mistake and did not give you enough hours in the first place.) An example of a change in circumstances would be a change in your medical condition that causes you to need more help. This can be a temporary change or a permanent change in your medical condition.

After the county does the reassessment you can appeal if you still don't think the county gave you enough hours. You can appeal by requesting an IHSS fair hearing. If the county refuses to give you a reassessment, you can request an IHSS fair hearing as well.

Do I need to get a note from my doctor to show that my circumstances have changed?

No. You don't need to give the county a note or certification from your doctor that your medical condition has changed. You can get a

reassessment without a note from your doctor. However, a note from your doctor might help you to show the county that you need more hours.

If my IHSS hours go up or down, will the 8% cut still apply?

Yes. The 8% cut will be applied to whatever hours you have at any given time. If your hours are increased after the reassessment, the 8% cut will apply to the increased number of hours. Likewise, if your hours are reduced, the 8% cut will apply to the reduced number of hours. In any case, the county is required at all times to give you the amount of hours you actually need. The 8% cut is then applied to those hours.

What if I have an unmet need for IHSS that is documented?

The 8% cut is subtracted from your total need for IHSS. This includes any unmet need. Unmet need is a need for more hours than IHSS can pay for. IHSS cannot pay for more than 283 hours per month. If you need more than 283 hours per month, you have an unmet need. The 8% is subtracted from your unmet need first, then from the hours that IHSS can pay for.

The county will be able to deduct the 8% cut from your unmet need only if the county has documented your unmet need. This means that the county must have documented that you need more than 283 hours of IHSS per month. If you need more hours than IHSS can pay for and the county has not documented your need for the additional hours, ask the county to do it.

Note: Under the budget law, protective supervision is not considered "unmet need" for purposes of making the 8% cut. If any of your protective supervision hours are paid for by IHSS, the 8% cut has to be subtracted from the 283 hours (or 195 hours in some cases) that IHSS actually pays for. The 8% cannot be subtracted from your unmet need for protective supervision. If you have questions, call DRC.

What is an example of unmet need?

You can find out if the county has found that you have unmet need by looking at the bottom of your notices of action. If it is not there, you can ask your case worker about your unmet need hours. Any notice you got before the original 3.6% reduction should list your actual unmet need. Some notices you got after the original 3.6% reduction will list an unmet need of 295 hours. Even though the 295 hours is not accurate, the IHSS computer should have the correct unmet need amount in it.

For example, if the county has authorized payment for 283 hours a month and has also recognized an additional 47 hours of unmet need, then the 8% cut will be taken first from the 47 hours of unmet need. The rest of the 8% cut will be taken from the hours that IHSS can pay for.

What should I do if I think I have unmet need for IHSS?

If you are authorized to receive 283 hours a month by the county for services other than protective supervision and you believe the county should have also documented unmet need, you can ask for a reassessment to determine your unmet need. If you disagree with the reassessment or the county refuses to reassess you, you can appeal by requesting an IHSS fair hearing.

What if I get additional IHSS hours under the Medi-Cal Home and Community–Based Services Nursing Facility/Acute Hospital or In-Home Operations waiver?

If your IHSS hours are reduced by the county, your IHSS hours under the waiver can be increased by the same amount. Contact your State Medi-Cal case manager with In-Home Operations.

Which IHSS services will get cut?

The 8% cut is a cut in the total number of IHSS hours. It is up to you to decide how the 8% cut will be applied to the various services you get from IHSS. The county does not decide this for you. You need to tell your provider or providers about the cuts and tell them which activities will be cut.

What if I qualify for IHSS with a share of cost?

Because of special rules that apply only to people who qualify for Medi-Cal funded IHSS with a share of cost, you may not be affected by the 8% reduction. Call us and say you qualify for IHSS with a share of cost and want to talk to an advocate about the 8% reduction.

Some time ago I heard something about "20% cuts" and "functional index cuts." What's happening with that?

None of those cuts are going to happen. The laws that required those cuts are going to be repealed. Those cuts would have been much larger than the 8% cuts (7% in 2014) that are going into effect. The plaintiffs in the Oster lawsuit agreed to the smaller 8% (7% in 2014) cut in order to stop those bigger cuts.

Where can I get more information about the 8% and 7% cut?

You can contact Disability Rights California. Here's a link to the DRC website: http://www.disabilityrightsca.org/. You can reach us at the following telephone numbers: Toll Free 1-800-776-5746 / TTY 1-800-719-5798.

How can I get help with my IHSS?

You can contact DRC at the website and telephone numbers listed above.

You can also contact your local legal services office.

Disability Rights California is funded by a variety of sources, for a complete list of funders, go to http://www.disabilityrightsca.org/Documents/ListofGrantsAndContracts.html.

Attachment #14

A SERVICE OF THE CALIFORNIA HEALTHCARE FOUNDATION

CaliforniaHealthline
The Daily Digest of News, Policy & Opinion

Federal Court Upholds 10% Medi-Cal Provider Cut

by David Gorn
Tuesday, May 28, 2013

The United States Ninth Circuit Court of Appeals on Friday upheld the right of California to impose a 10% rate reduction on providers of Medi-Cal services.

The long-awaited ruling is the last judicial step, short of the U.S. Supreme Court, for the controversial cut to hospitals, physicians, emergency transport and dentists. Provider groups have said they would likely appeal the rate reduction to the Supreme Court.

The federal ruling lifted the injunctions on implementing the reductions. Outside of a Supreme Court appeal, the federal judicial panel clearly stated there would be no further appeals considered.

"This decision will be devastating to an already fragile safety net," said Lindsey Robinson, president of the California Dental Association. If provider rates dip too low, providers may stop accepting Medi-Cal patients, she said. That comes at a time when the expansion of Medi-Cal will create more demand for providers.

"The state's efforts to cut reimbursement rates will harm patients' oral health and their ability to access care at a time when California is trying to recruit more providers into the system," Robinson said.

That 10% cut represents about $600 million a year to the California budget.

The Legislature, prompted by the governor and a huge budget shortfall, passed the 10% across-the-board reductions in 2011. That move was put on hold until the court case could be resolved. Now, two years later, providers are not only looking at that 10% cut, but also at needing to pay back two years' worth of retroactive service fees.

State officials have said that "clawback" can be paid over four years instead of two, which would mean a 15% rate reduction for Medi-Cal providers for the next four years, and a 10% reduction after that.

The California Hospital Association, in a written release, expressed sadness at the Ninth Circuit decision and did not yet commit to a Supreme Court appeal.

"We are evaluating next steps in terms of the judicial process," the statement said.

The other avenue of effort is legislative. Two bills going through the Legislature now would reverse the 10% cuts.SB 640 by Sen. Ricardo Lara (Long Beach) and AB 900 by Assembly member Luis Alejo (D-Watsonville) received bipartisan support and unanimous votes in committee when first introduced.

The governor said he would veto the bills. Some lawmakers are talking about mounting a campaign for a two-thirds majority in the Legislature to override a veto.

If those bills do become law and the 10% reductions are reversed, the reversal of cuts could not be retroactive, so providers would face a minimum of two years' worth of provider rate reductions, according to state officials.

ARCA ASSOCIATION OF REGIONAL CENTER AGENCIES
915 L Street, Suite 1440 • Sacramento, California 95814 • 916.446.7961 • Fax: [illegible]

SB 579 (Berryhill)

Developmental Disabilities Services System Oversight Efficiency and Quality Enhancement Act

Background:
The Lanterman Act provides for quality state-funded services and supports for individuals with developmental disabilities (clients) in California. Evaluation of the services and supports that clients receive from both Regional Centers and service providers is a critical component of this service system. Those services are designed to assist those individuals and their families to be integrated, independent members of their communities.
Currently, three state entities are charged with monitoring and maintaining those services: the Department of Developmental Services (and the 21 Regional Centers); the Department of Social Services Community Care Licensing; and the Department of Public Health Licensing.

Issue:
This duplication wastes state dollars and resources by having multiple people and agencies looking at the same criteria, sometimes from contradictory review values. Each agency applies different and often contradictory standards. Service providers have their costs and staff hours increased by this duplication. And clients' services are hindered, as the development of innovative, cost-effective services and best practices is impeded by outdated licensing categories and regulations. It is not effective at ensuring, monitoring, or improving quality of services.

What This Bill Does:
SB 579 creates a five-year Oversight Efficiency and Quality Enhancement Model pilot project that will place authority for service quality at DDS and three pilot Regional Centers – the agencies with expertise in serving people with developmental disabilities. It updates standards used in service provider reviews to address individual outcomes such as community inclusion, empowerment, and choice, as well as health and safety.
To strengthen and refine the project, local Advisory Committees and statewide Stakeholder Organizations – including consumers, family members, service providers, and advocates – will provide input and feedback in its design, implementation, and evaluation. There is also a data collection component to gather reliable, valid, accessible data focused on the quality enhancements desired over time.
This bill is consistent with efforts to move licensing responsibilities closer to the responsible state agency providing the funding. Its unitary authority approach has been successfully adopted in statute for certain services to persons with developmental disabilities (*e.g.*, supported living services).

Support
Association of Regional Center Agencies (sponsor)
Cal-TASH; Lifehouse; Partnerships With Industry.

Staff Contacts

Brent Finkel
brent.finkel@sen.ca.gov
916.651.4014

Barry Benda
bbenda@lifehouseagency.org
415.526.5316

Daniel Savino
dsavino@arcanet.org
916.446.7961

25Jun2013

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

DEPARTMENT OF DEVELOPMENTAL SERVICES
1600 9th Street, Room 320, Mail Stop 3-9
Sacramento, CA 95814
TDD 654-2054 (For the Hearing Impaired)
(916) 654-1954

June 17, 2013

TO: REGIONAL CENTER DIRECTORS, ADMINISTRATORS AND CHIEF COUNSELORS

SUBJECT: FISCAL YEAR (FY) 2013-2014 UNIFORM HOLIDAY SCHEDULE

Welfare and Institutions Code section 4692, requires the observance of 14 uniform holidays by specified regional center vendors. These vendors include: work activity programs, activity centers, adult development centers, behavior management programs, social recreation programs, adaptive skills trainer programs, infant development programs, program support groups (day service), socialization training programs, client/parent support behavior intervention training programs, community integration training programs, community activities support services, and creative arts programs, as defined in Title 17 of the California Code of Regulations.

In response to requests to alter the Uniform Holiday Schedule in FY 2013-14, the Department of Developmental Services (Department) recently surveyed stakeholders (consumers, families, affected service providers, regional centers, etc.). The survey on the Department's website generated almost 2,500 responses. The survey addressed the following issues: the concentration of three uniform holidays in December, and the fact that these holidays are to be observed mid-week (Tuesday-Thursday) in FY 2013-14. Constituents expressed a concern that observing the holidays mid-week may result in a loss of the entire week of programming.

The survey asked, "Which holiday should be observed on an alternate day?", and requested suggested alternatives to the current Uniform Holiday Schedule. The overwhelming response to these questions was that for FY 2013-14, December 23rd should be observed instead of December 26th. Therefore, the Uniform Holiday Schedule is being altered to observe Monday, December 23; Tuesday, December 24; and Wednesday, December 25, in FY 2013-14. December 26, 2013, will not be observed as a holiday.

"Building Partnerships, Supporting Choices"

While this change to the Uniform Holiday Schedule is responsive to constituents' expressed concerns, it does not provide a long-term solution to the issue. Therefore, the Department will conduct another survey to address the December holidays in FY 2014-15, and subsequent years.

The FY 2013-14 Uniform Holiday Schedule is as follows:

1. Thursday, July 4th
2. Monday, September 2nd
3. Monday, October 14th
4. Monday, November 11th
5. Thursday, November 28th
6. Friday, November 29th
7. Monday, December 23rd
8. Tuesday, December 24th
9. Wednesday, December 25th
10. Wednesday, January 1st
11. Monday, January 20th
12. Monday, February 17th
13. Monday, March 31st
14. Monday, May 26th

If you have any questions regarding this correspondence, please contact the Department at (916) 654-1958.

Sincerely,

Original signed by

BRIAN WINFIELD
Acting Deputy Director
Community Operations Division

cc: Association of Regional Center Agencies
Bev Humphrey, DDS
Jim Knight, DDS

Attachment #17

Report 2012-107 Summary - July 2013

Developmental Centers:

Poor-Quality Investigations, Outdated Policies, Leadership and Staffing Problems, and Untimely Licensing Reviews Put Residents at Risk

HIGHLIGHTS

Our audit on resident safety at the California Department of Developmental Services(department) developmental centers highlighted the following:

- The department's health care staff do not always provide timely notification of incidents to its Office of Protective Services (OPS).
- OPS did not routinely follow its investigation procedures of alleged resident abuse.
  - It frequently failed to collect written declarations from witnesses and suspects during incident investigations.
  - It often did not take photographs of crime scenes or alleged victims.
  - It did not always attempt to interview alleged victims, particularly those who were said to be nonverbal.
- Lack of continuity in OPS's leadership has contributed to the department's inability to address longstanding resident safety issues.
  - The department does not regularly provide specialized training for OPS staff to work with residents.
  - The department lacks a formal recruitment program to address the high vacancy rates within OPS and counteract its lower salaries compared to those of nearby local law enforcement entities.
- Both OPS and health care staff have worked excessive overtime, which could compromise the safety of staff and residents.
- The California Department of Public Health (Public Health) has not consistently performed all of its required duties when overseeing the developmental centers.
  - Its follow up on certification surveys was not always performed promptly.
  - It frequently failed to perform state licensing surveys.
  - It did not consistently initiate timely investigations for incidents it classifies as less serious.
  - It has not prepared required annual reports evaluating the effectiveness of its enforcement activities.

RESULTS IN BRIEF

The California Department of Developmental Services (department) needs to improve its oversight of resident safety in its developmental centers. The department is responsible for operating state-owned developmental centers, which house and care for individuals with significant developmental disabilities (residents). Developmental centers are staffed with nurses, psychiatric technicians, and other health care professionals who support the ongoing health and safety of the residents who live there. When health care staff discover that a resident has experienced an injury or inappropriate risk of harm, they must report the incident and also initiate a review of the circumstances. Although the department's health care staff generally perform these reviews according to appropriate procedure, they do not always provide timely notification to the department's Office of Protective Services (OPS). OPS law enforcement officers are on-site at each developmental center and, in addition to general patrol and traffic enforcement duties, respond to alleged abuse of residents. However, OPS does not appear to routinely follow its established procedures for investigations of alleged abuse.

We reviewed 48 OPS investigations and found 54 deficiencies in 267 applicable observations. In particular, OPS often did not collect written declarations from witnesses and suspects during incident investigations, often did not take photographs of crime scenes or alleged victims, and did not always attempt to interview alleged victims, particularly residents who were said to be nonverbal. These deficiencies cast doubt on OPS's quality assurance process, which includes supervisory reviews, and cause the department to have less assurance that its OPS investigation conclusions are correct. Investigative deficiencies, such as those we observed, may allow for continued abuse at the developmental centers.

Partially as a result of frequent turnover in OPS management, the department has struggled to address longstanding resident safety issues, including updating outdated and underdeveloped OPS policies and oversight practices. The department hired law enforcement consultants in early 2012 to help it update OPS policies to strengthen areas of noncompliance and to add other best practices. As of May 2013 the department was preparing to finalize and implement the policy updates. One ongoing, unaddressed concern is the training and hiring of OPS personnel. Although OPS complies with minimum requirements concerning qualifications and training, it has not required the specialized training OPS personnel need to effectively work with residents, such as training in nonverbal communication skills. Another continuing challenge for OPS is the hiring and retention of qualified staff. One impediment is that OPS salaries are lower than those of the local law enforcement entities with which the developmental centers compete for employees. Even so, OPS has not developed a cohesive recruiting approach to attempt to counteract this disparity.

One potential consequence of its difficulties in hiring may be OPS's vacancy rate of roughly 43 percent, causing—at least partially—its high levels of overtime. Likewise, certain health care positions within the department, its psychiatric technicians in particular, have experienced high levels of overtime. In fact, we identified 62 department employees who worked so many extra hours that their overtime pay equaled or exceeded their regular pay over a five-year period. The department indicated that these staff and others who have worked significant overtime have done so out of necessity created by vacancies and other staffing issues caused by long periods of statewide budget reductions and corresponding hiring freezes. Nevertheless, research studies indicate that excessive overtime causes fatigue in health care staff and peace officers, and this fatigue can result in mistakes that put residents at risk of harm.

We noted that, although OPS overtime pay still appears to be excessive at 23 percent of regular pay in 2012, the department has reduced OPS overtime over the last three years and is now tracking the amount of overtime OPS employees work. However, another important performance measure—tracking outstanding investigative cases—was put on hold for a time as the result of OPS management turnover.

Despite a recommendation made more than 10 years ago by law enforcement consultants, the department has not created measurable short- and long-term goals for OPS. In Appendix A we list recommendations from a 2002 report by law enforcement consultants hired by the Office of the Attorney General. The lack of action to implement some of these recommendations has led to systemic issues, such as excessive OPS overtime and inconsistent implementation of practices and procedures, inappropriately putting developmental center residents at risk.

The California Department of Public Health (Public Health), which provides oversight of the developmental centers, has not consistently performed all of its required duties. We found that Public Health has failed to consistently perform prompt follow-ups on certification surveys or to perform state licensing surveys on time or at all. In addition, Public Health does not promptly perform investigations for incidents it classifies as less serious. Finally, because Public Health has not prepared a required report, the effectiveness of its enforcement practices, particularly those related to developmental centers, remains uncertain.

RECOMMENDATIONS

The department should provide a reminder to staff about the importance of promptly notifying OPS of incidents involving resident safety.

To provide adequate guidance to OPS personnel, the department and OPS should place a high priority on completing and implementing the planned updates to the OPS policy and procedure manual.

To help ensure the quality of OPS investigations, the department should revise its OPS training policy to require its law enforcement personnel to annually attend specialized trainings that address their specific needs. At least initially, the department should focus the additional trainings on communicating with residents, writing effective investigative reports, and collecting investigative evidence.

After the department has implemented a formal OPS recruiting program, if it can demonstrate that it is still unable to fill its vacant OPS positions, the department should evaluate how it can reduce some of the compensation disparity between OPS and the local law enforcement agencies with which it competes for qualified personnel.

To minimize the need for overtime, the department should reassess its minimum staffing requirements, hire a sufficient number of employees to cover those requirements, and examine its employee scheduling processes

To improve its enforcement, each year Public Health should evaluate the effectiveness of its enforcement system across all types of health facilities, including those in developmental centers, and prepare the required annual report to the Legislature.

AGENCY COMMENTS

The department concurred with our findings and recommendations and supports the recommendations to strengthen areas that further increase protections and reduce risk to developmental center residents. The department stated that many of the recommendations have already been implemented or are underway. Public Health agreed with all but one of our recommendations and indicated that it is in the process of implementing them. Public Health disagrees with our recommendation that it should develop and implement target time frames for investigation priority levels that lack them because it believes its current process is sufficient to assign and monitor timeliness.

- View this entire report in Adobe Portable Document Format (PDF)
- Agencies/Departments Related to This Report:
  - Canyon Springs Community Facility
  - Developmental Services, Department of
  - Fairview Developmental Center
  - Lanterman Developmental Center
  - Porterville Developmental Center
  - Public Health, Department of
  - Sonoma Developmental Center
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Tri-Counties Regional Center

Information for Families

Regarding Regional Center Payment of Health Insurance Deductibles, Co-Pays and Co-Insurance Effective July 1, 2013

The Fiscal Year 2013-2014California State Budget includes new Trailer Bill Language (TBL) [***Welfare and Institutions Code Section 4659.1***] that may impact some families who have been receiving assistance from Tri-Counties Regional Center (TCRC) for private health insurance deductibles, co-payments, and co-insurance for behavioral services. TCRC did not support these changes; however, the State Legislature and Governor approved them and now these changes are in state law. We are waiting for more information from the Department of Developmental Services (DDS) regarding how regional centers are to implement these new statutes.

It is our understanding that the TBL:

1. Prohibits all Regional Centers (including TCRC) from paying any family's private health insurance deductible costs; and,
2. Allows RCs to pay for co-payments and co-insurance for persons served if certain conditions are met (Note: this is for any IPP/IFSP service covered by health insurance, not just behavior services).
    - If the family's, or adult person served's, annual gross income is less than 400% of the federal poverty level (FPL).
    - If payment is necessary to ensure the person served receives the service.
    - There is no other third party having liability for the cost of the service or support.
    - The family or adult person served must self-certify their income by providing certain documentation, such as the prior year's State income tax return.
    - If there is an "extraordinary event," a "catastrophic loss," or "significant unreimbursed medical costs" for the person served or another TCRC person served in the family, TCRC may by exception pay the co-payments and co-insurance for families and adults whose gross income is greater than 400% of the FPL.

If you or your family member are currently receiving assistance from TCRC for deductibles, co-pays, or co-insurance, TCRC will send a 30 day notice of action to you or your family member before any funding would end. These letters are being finalized and are expected to be mailed the week of July 15th. Your Service Coordinator will also contact you or your family member to set up a Planning Team meeting either in person or by phone to review and discuss any amendments to the IPP. As more information becomes available, TCRC will be posting this on its website and will be contacting families directly regarding any changes to services.

The exact language of the 2013 Trailer Bill related to CA Department of Developmental Services and Regional Centers can be read at the link below:
http://www.leginfo.ca.gov/pub/13-14/bill/asm/ab_0051-0100/ab_89_bill_20130611_amended_sen_v98.pdf
The specifics related to insurance can be found in ***Welfare & Institutions Code, Section 7, 4659.1***, page 22.

To learn more about the upcoming new Health Insurance Plans and Rates available through the new Affordable Care Act, known as "Covered California," visit www.coveredca.com

If your family has health insurance through Healthy Families in **Ventura County**, your insurance transitions to Medi-Cal on August 1st. Rainbow Connection will be hosting informational meetings about the transition. Contact Rainbow for locations, dates and times at rainbow@tri-counties.org

Additional information on the Federal Poverty Level Income and Family Cost Participation Guidelines used to determine the 400% level can be found at:
http://www.dds.ca.gov/fcpp/docs/BestTranslations_Pamphlet.pdf