

AMENDED IN ASSEMBLY FEBRUARY 25, 2010

AMENDED IN ASSEMBLY FEBRUARY 22, 2010

CALIFORNIA LEGISLATURE—2009—10 EIGHTH EXTRAORDINARY SESSION

SENATE BILL

No. 4

Introduced by Committee on Budget and Fiscal Review

January 20, 2010

An act to amend Sections ~~4639.5, 4640.6, 4640.6~~ and 11401 of the Welfare and Institutions Code, and to amend Section 10 of Chapter 13 of the Third Extraordinary Session of the Statutes of 2009, relating to social services.

LEGISLATIVE COUNSEL'S DIGEST

SB 4, as amended, Committee on Budget and Fiscal Review. Social services.

(1) Existing law establishes the State Department of Developmental Services and sets forth its powers and duties, including, but not limited to, administration of the Lanterman Developmental Disabilities Services Act, which requires the department to allocate funds to private nonprofit regional centers for the provision of community services and support for persons with developmental disabilities and their families and sets forth the duties of regional centers in that regard.

Existing law requires contracts between the department and regional centers to specify certain coordinator-to-consumer ratios, and requires regional centers to have, or contract for, expertise in certain areas, ~~and provide coordinator caseload, salary, and administrative expenditure reports~~. Existing law exempts the regional centers from these provisions for the period from February 1, 2009, to June 30, 2010, inclusive.

This bill would extend these exemptions until June 30, 2011.

Existing law requires regional centers, in order to implement changes in the level of funding for regional center purchase of services, from February 1, 2009, to June 30, 2010, inclusive, to reduce certain payments for services delivered on or after February 1, 2009, by 3%, except as specified.

This bill would extend the requirement of a 3% reduction in payments until June 30, 2011.

(2) Existing law establishes the Aid to Families with Dependent Children-Foster Care (AFDC-FC) program, under which counties provide payments to foster care providers on behalf of qualified children in foster care. The program is funded by a combination of federal, state, and county funds, with moneys from the General Fund being continuously appropriated to pay for the state’s share of AFDC-FC costs.

Under existing law, federal financial participation is available for certain children who have been adjudged dependent children or wards of the court, or who have been detained under a court order.

This bill would expand eligibility for federal financial participation to include dependent children and wards of the juvenile court, and foster children, who reside in an eligible foster care placement, if federal requirements relating to the state foster care plan and foster care maintenance payments have been met, as specified.

(3)The California Constitution authorizes the Governor to declare a fiscal emergency and to call the Legislature into special session for that purpose. The Governor issued a proclamation declaring a fiscal emergency, and calling a special session for this purpose, on January 8, 2010.

This bill would state that it addresses the fiscal emergency declared by the Governor by proclamation issued on January 8, 2010, pursuant to the California Constitution.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 ~~SECTION 1. Section 4639.5 of the Welfare and Institutions~~
2 ~~Code is amended to read:~~
3 ~~4639.5. (a) By December 1 of each year, each regional center~~
4 ~~shall provide a listing to the State Department of Developmental~~
5 ~~Services a complete current salary schedule for all personnel~~

1 ~~classifications used by the regional center. The information shall~~
2 ~~be provided in a format prescribed by the department. The~~
3 ~~department shall provide this information to the public upon~~
4 ~~request. From February 1, 2009, to June 30, 2011, inclusive, the~~
5 ~~requirements of this subdivision shall not apply.~~

6 ~~(b) By December 1 of each year, each regional center shall~~
7 ~~report information to the State Department of Developmental~~
8 ~~Services on all prior fiscal year expenditures from the regional~~
9 ~~center operations budget for all administrative services, including~~
10 ~~managerial, consultant, accounting, personnel, labor relations, and~~
11 ~~legal services, whether procured under a written contract or~~
12 ~~otherwise. Expenditures for the maintenance, repair, or purchase~~
13 ~~of equipment or property shall not be required to be reported for~~
14 ~~purposes of this subdivision. The report shall be prepared in a~~
15 ~~format prescribed by the department and shall include, at a~~
16 ~~minimum, for each recipient the amount of funds expended, the~~
17 ~~type of service, and purpose of the expenditure. The department~~
18 ~~shall provide this information to the public upon request. Regional~~
19 ~~centers shall not be required to prepare or submit the report required~~
20 ~~by this subdivision in 2009 or in 2010.~~

21 ~~SEC. 2.~~

22 ~~SECTION 1.~~ Section 4640.6 of the Welfare and Institutions
23 Code is amended to read:

24 4640.6. (a) In approving regional center contracts, the
25 department shall ensure that regional center staffing patterns
26 demonstrate that direct service coordination are the highest priority.

27 (b) Contracts between the department and regional centers shall
28 require that regional centers implement an emergency response
29 system that ensures that a regional center staff person will respond
30 to a consumer, or individual acting on behalf of a consumer, within
31 two hours of the time an emergency call is placed. This emergency
32 response system shall be operational 24 hours per day, 365 days
33 per year.

34 (c) Contracts between the department and regional centers shall
35 require regional centers to have service coordinator-to-consumer
36 ratios, as follows:

37 (1) An average service coordinator-to-consumer ratio of 1 to
38 62 for all consumers who have not moved from the developmental
39 centers to the community since April 14, 1993. In no case shall a

1 service coordinator for these consumers have an assigned caseload
2 in excess of 79 consumers for more than 60 days.

3 (2) An average service coordinator-to-consumer ratio of 1 to
4 45 for all consumers who have moved from a developmental center
5 to the community since April 14, 1993. In no case shall a service
6 coordinator for these consumers have an assigned caseload in
7 excess of 59 consumers for more than 60 days.

8 (3) Commencing January 1, 2004, the following
9 coordinator-to-consumer ratios shall apply:

10 (A) All consumers three years of age and younger and for
11 consumers enrolled in the Home and Community-based Services
12 Waiver program for persons with developmental disabilities, an
13 average service coordinator-to-consumer ratio of 1 to 62.

14 (B) All consumers who have moved from a developmental
15 center to the community since April 14, 1993, and have lived
16 continuously in the community for at least 12 months, an average
17 service coordinator-to-consumer ratio of 1 to 62.

18 (C) All consumers who have not moved from the developmental
19 centers to the community since April 14, 1993, and who are not
20 described in subparagraph (A), an average service
21 coordinator-to-consumer ratio of 1 to 66.

22 (4) For purposes of paragraph (3), service coordinators may
23 have a mixed caseload of consumers three years of age and
24 younger, consumers enrolled in the Home and Community-based
25 Services Waiver program for persons with developmental
26 disabilities, and other consumers if the overall average caseload
27 is weighted proportionately to ensure that overall regional center
28 average service coordinator-to-consumer ratios as specified in
29 paragraph (3) are met. For purposes of paragraph (3), in no case
30 shall a service coordinator have an assigned caseload in excess of
31 84 for more than 60 days.

32 (d) For purposes of this section, “service coordinator” means a
33 regional center employee whose primary responsibility includes
34 preparing, implementing, and monitoring consumers’ individual
35 program plans, securing and coordinating consumer services and
36 supports, and providing placement and monitoring activities.

37 (e) In order to ensure that caseload ratios are maintained
38 pursuant to this section, each regional center shall provide service
39 coordinator caseload data to the department, annually for each
40 fiscal year. The data shall be submitted in the format, including

1 the content, prescribed by the department. Within 30 days of receipt
2 of data submitted pursuant to this subdivision, the department shall
3 make a summary of the data available to the public upon request.
4 The department shall verify the accuracy of the data when
5 conducting regional center fiscal audits. Data submitted by regional
6 centers pursuant to this subdivision shall:

7 (1) Only include data on service coordinator positions as defined
8 in subdivision (d). Regional centers shall identify the number of
9 positions that perform service coordinator duties on less than a
10 full-time basis. Staffing ratios reported pursuant to this subdivision
11 shall reflect the appropriate proportionality of these staff to
12 consumers served.

13 (2) Be reported separately for service coordinators whose
14 caseload includes any of the following:

15 (A) Consumers who are three years of age and older and who
16 have not moved from the developmental center to the community
17 since April 14, 1993.

18 (B) Consumers who have moved from a developmental center
19 to the community since April 14, 1993.

20 (C) Consumers who are younger than three years of age.

21 (D) Consumers enrolled in the Home and Community-based
22 Services Waiver program.

23 (3) Not include positions that are vacant for more than 60 days
24 or new positions established within 60 days of the reporting month
25 that are still vacant.

26 (4) For purposes of calculating caseload ratios for consumers
27 enrolled in the Home- and Community-based Services Waiver
28 program, vacancies shall not be included in the calculations.

29 (f) The department shall provide technical assistance and require
30 a plan of correction for any regional center that, for two consecutive
31 reporting periods, fails to maintain service coordinator caseload
32 ratios required by this section or otherwise demonstrates an
33 inability to maintain appropriate staffing patterns pursuant to this
34 section. Plans of correction shall be developed following input
35 from the local area board, local organizations representing
36 consumers, family members, regional center employees, including
37 recognized labor organizations, and service providers, and other
38 interested parties.

1 (g) Contracts between the department and regional center shall
2 require the regional center to have, or contract for, all of the
3 following areas:
4 (1) Criminal justice expertise to assist the regional center in
5 providing services and support to consumers involved in the
6 criminal justice system as a victim, defendant, inmate, or parolee.
7 (2) Special education expertise to assist the regional center in
8 providing advocacy and support to families seeking appropriate
9 educational services from a school district.
10 (3) Family support expertise to assist the regional center in
11 maximizing the effectiveness of support and services provided to
12 families.
13 (4) Housing expertise to assist the regional center in accessing
14 affordable housing for consumers in independent or supportive
15 living arrangements.
16 (5) Community integration expertise to assist consumers and
17 families in accessing integrated services and supports and improved
18 opportunities to participate in community life.
19 (6) Quality assurance expertise, to assist the regional center to
20 provide the necessary coordination and cooperation with the area
21 board in conducting quality-of-life assessments and coordinating
22 the regional center quality assurance efforts.
23 (7) Each regional center shall employ at least one consumer
24 advocate who is a person with developmental disabilities.
25 (8) Other staffing arrangements related to the delivery of
26 services that the department determines are necessary to ensure
27 maximum cost-effectiveness and to ensure that the service needs
28 of consumers and families are met.
29 (h) Any regional center proposing a staffing arrangement that
30 substantially deviates from the requirements of this section shall
31 request a waiver from the department. Prior to granting a waiver,
32 the department shall require a detailed staffing proposal, including,
33 but not limited to, how the proposed staffing arrangement will
34 benefit consumers and families served, and shall demonstrate clear
35 and convincing support for the proposed staffing arrangement from
36 constituencies served and impacted, that include, but are not limited
37 to, consumers, families, providers, advocates, and recognized labor
38 organizations. In addition, the regional center shall submit to the
39 department any written opposition to the proposal from
40 organizations or individuals, including, but not limited to,

1 consumers, families, providers, and advocates, including
2 recognized labor organizations. The department may grant waivers
3 to regional centers that sufficiently demonstrate that the proposed
4 staffing arrangement is in the best interest of consumers and
5 families served, complies with the requirements of this chapter,
6 and does not violate any contractual requirements. A waiver shall
7 be approved by the department for up to 12 months, at which time
8 a regional center may submit a new request pursuant to this
9 subdivision.

10 (i) From February 1, 2009, to June 30, ~~2011~~ 2010, inclusive,
11 the following shall not apply:

12 (1) The service coordinator-to-consumer ratio requirements of
13 paragraph (1), and subparagraph (C) of paragraph (3), of
14 subdivision (c).

15 (2) The requirements of subdivision (e). The regional centers
16 shall, instead, maintain sufficient service coordinator caseload data
17 to document compliance with the service coordinator-to-consumer
18 ratio requirements in effect pursuant to this section.

19 (3) The requirements of paragraphs (1) to (6), inclusive, of
20 subdivision (g).

21 (j) *From July 1, 2010, to June 30, 2011, inclusive, the following*
22 *shall not apply:*

23 (1) *The service coordinator-to-consumer ratio requirements of*
24 *paragraph (1), and subparagraph (C) of paragraph (3), of*
25 *subdivision (c).*

26 (2) *The requirements of paragraphs (1) to (6), inclusive, of*
27 *subdivision (g).*

28 (j)

29 (k) (1) Any contract between the department and a regional
30 center entered into on and after January 1, 2003, shall require that
31 all employment contracts entered into with regional center staff
32 or contractors be available to the public for review, upon request.
33 For purposes of this subdivision, an employment contract or portion
34 thereof may not be deemed confidential nor unavailable for public
35 review.

36 (2) Notwithstanding paragraph (1), the social security number
37 of the contracting party may not be disclosed.

38 (3) The term of the employment contract between the regional
39 center and an employee or contractor shall not exceed the term of
40 the state's contract with the regional center.

1 ~~SEC. 3.~~

2 *SEC. 2.* Section 11401 of the Welfare and Institutions Code is
3 amended to read:

4 11401. Aid in the form of AFDC-FC shall be provided under
5 this chapter on behalf of any child under the age of 18 years, except
6 as provided in Section 11403, who meets the conditions of
7 subdivision (a), (b), (c), (d), (e), (f), or (g):

8 (a) The child has been relinquished, for purposes of adoption,
9 to a licensed adoption agency, or the department, or the parental
10 rights of either or both of his or her parents have been terminated
11 after an action under the Family Code has been brought by a
12 licensed adoption agency or the department, provided that the
13 licensed adoption agency or the department, if responsible for
14 placement and care, provides to those children all services as
15 required by the department to children in foster care.

16 (b) The child has been removed from the physical custody of
17 his or her parent, relative, or guardian as a result of a voluntary
18 placement agreement or a judicial determination that continuance
19 in the home would be contrary to the child’s welfare and that, if
20 the child was placed in foster care, reasonable efforts were made,
21 consistent with Chapter 5 (commencing with Section 16500) of
22 Part 4, to prevent or eliminate the need for removal of the child
23 from his or her home and to make it possible for the child to return
24 to his or her home, and any of the following applies:

25 (1) The child has been adjudged a dependent child of the court
26 on the grounds that he or she is a person described by Section 300.

27 (2) The child has been adjudged a ward of the court on the
28 grounds that he or she is a person described by Sections 601 and
29 602.

30 (3) The child has been detained under a court order, pursuant
31 to Section 319 or 636, that remains in effect.

32 (4) The child’s dependency jurisdiction has resumed pursuant
33 to Section 387.

34 (c) The child has been voluntarily placed by his or her parent
35 or guardian pursuant to Section 11401.1.

36 (d) The child is living in the home of a nonrelated legal guardian.

37 (e) The child has been placed in foster care under the federal
38 Indian Child Welfare Act. Sections 11402, 11404, and 11405 shall
39 not be construed as limiting payments to Indian children, as defined

1 in the federal Indian Child Welfare Act, placed in accordance with
2 that act.

3 (f) To be eligible for federal financial participation, the
4 conditions described in paragraph (1), (2), or (3) shall be satisfied:

5 (1) (A) The child meets the conditions of subdivision (b).

6 (B) The child has been deprived of parental support or care for
7 any of the reasons set forth in Section 11250.

8 (C) The child has been removed from the home of a relative as
9 defined in Section 233.90(c)(1) of Title 45 of the Code of Federal
10 Regulations, as amended.

11 (D) The requirements of Sections 671 and 672 of Title 42 of
12 the United States Code, as amended, have been met.

13 (2) (A) The child meets the requirements of subdivision (g).

14 (B) The requirements of Sections 671 and 672 of Title 42 of
15 the United States Code, as amended, have been met.

16 (C) This paragraph shall be implemented only if federal financial
17 participation is available for the children described in this
18 paragraph.

19 (3) (A) The child has been removed from the custody of his or
20 her parent, relative, or guardian as a result of a voluntary placement
21 agreement or a judicial determination that continuance in the home
22 would be contrary to the child's welfare and that, if the child was
23 placed in foster care, reasonable efforts were made, consistent with
24 Chapter 5 (commencing with Section 16500) of Part 4, to prevent
25 or eliminate the need for removal of the child from his or her home
26 and to make it possible for the child to return to his or her home,
27 and any of the following applies:

28 (i) The child has been adjudged a dependent child of the court
29 on the grounds that he or she is a person described by Section 300.

30 (ii) The child has been adjudged a ward of the court on the
31 grounds that he or she is a person described by Sections 601 and
32 602.

33 (iii) The child has been detained under a court order, pursuant
34 to Section 319 or 636, that remains in effect.

35 (iv) The child's dependency jurisdiction has resumed pursuant
36 to Section 387.

37 (B) The child has been placed in an eligible foster care
38 placement, as set forth in Section 11402.

39 (C) The requirements of Sections 671 and 672 of Title 42 of
40 the United States Code have been satisfied.

1 (D) This paragraph shall be implemented only if federal financial
2 participation is available for the children described in this
3 paragraph.

4 (g) The child meets all of the following conditions:

5 (1) The child has been adjudged to be a dependent child or ward
6 of the court on the grounds that he or she is a person described in
7 Section 300.

8 (2) The child’s parent also has been adjudged to be a dependent
9 child of the court on the grounds that he or she is a person described
10 by Section 300 or Section 602 and is receiving benefits under this
11 chapter.

12 (3) The child is placed in the same licensed or approved foster
13 care facility in which his or her parent is placed and the child’s
14 parent is receiving reunification services with respect to that child.

15 ~~SEC. 4.~~

16 *SEC. 3.* Section 10 of Chapter 13 of the Third Extraordinary
17 Session of the Statutes of 2009 is amended to read:

18 *Sec. 10.* (a) Notwithstanding any other provision of law, in
19 order to implement changes in the level of funding for regional
20 center purchase of services, regional centers shall reduce payments
21 for services and supports provided pursuant to Title 14
22 (commencing with Section 95000) of the Government Code and
23 Division 4.1 (commencing with Section 4400) and Division 4.5
24 (commencing with Section 4500) of the Welfare and Institutions
25 Code. From February 1, 2009, to June 30, 2011, inclusive, regional
26 centers shall reduce all payments for these services and supports
27 paid from purchase of services funds for services delivered on or
28 after February 1, 2009, by 3 percent, unless the regional center
29 demonstrates that a nonreduced payment is necessary to protect
30 the health and safety of the individual for whom the services and
31 supports are proposed to be purchased, and the State Department
32 of Developmental Services has granted prior written approval.

33 (b) Regional centers shall not reduce payments pursuant to
34 subdivision (a) for the following:

35 (1) Supported employment services with rates set by Section
36 4860 of the Welfare and Institutions Code.

37 (2) Services with “usual and customary” rates established
38 pursuant to Section 57210 of Title 17 of the California Code of
39 Regulations.

1 (3) Payments to offset reductions in Supplemental Security
2 Income/State Supplementary Payment (SSI/SSP) benefits for
3 consumers receiving supported and independent living services.

4 (c) Notwithstanding any other provision of law, in order to
5 implement changes in the level of funding appropriated for regional
6 centers, the department shall amend regional center contracts to
7 adjust regional center budgets accordingly for the 2008–09 fiscal
8 year through the 2010–11 fiscal year. The contract amendments
9 and budget adjustments shall be exempt from the provisions of
10 Article 1 (commencing with Section 4620) of Chapter 5 of Division
11 4.5 of the Welfare and Institutions Code.

12 ~~SEC. 5.~~

13 *SEC. 4.* This act addresses the fiscal emergency declared by
14 the Governor by proclamation on January 8, 2010, pursuant to
15 subdivision (f) of Section 10 of Article IV of the California
16 Constitution.

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