

## Assembly Bill No. 104

### CHAPTER 37

An act to amend Section 95020 of, and to add Section 95020.5 to, the Government Code, to amend Sections 709, 712, 4643, 4646.4, 4646.5, 4646.55, 4648.35, 4688.1, 4688.2, 4689, and 7502.5 of, to amend and repeal Section 4435 of, to add Sections 4435.1, 4641.5, 4648.55, 4681.7, 4686.3, 4686.31, 4688.21, and 4690.6 to, and to add and repeal Section 4785 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 developmental services, making an appropriation therefor, to take effect immediately, bill related to the budget.

[Approved by Governor June 30, 2011. Filed with  
Secretary of State June 30, 2011.]

#### LEGISLATIVE COUNSEL'S DIGEST

AB 104, Committee on Budget. Developmental services.

(1) The Lanterman Developmental Disabilities Services Act authorizes the State Department of Developmental Services to contract with regional centers to provide services and supports to individuals with developmental disabilities. The services and supports to be provided to a regional center consumer are contained in an individual program plan (IPP), developed in accordance with prescribed requirements.

This bill would require the planning process for the development of an IPP to include the development of a transportation access plan, as specified, when certain conditions are met.

This bill would specify the process by which a consumer who is 18 to 22 years of age, inclusive, is provided with day, vocational education, work services, independent living, or mobility and related transportation services.

(2) Existing law, in counties that agree to be subject to these provisions pursuant to a resolution adopted by the board of supervisors, provides that when it appears to the court, or upon request of the prosecutor or counsel, that a minor who is alleged to come within the jurisdiction of the juvenile court as a person who is or may be found to be a ward of the juvenile court may have a serious mental disorder, is seriously emotionally disturbed, or has a developmental disability, the court may order that the minor be referred for evaluation by a licensed mental health professional. Existing law also authorizes, during the pendency of any juvenile proceeding, the minor's counsel or the court to express a doubt as to the minor's competency. Existing law requires proceedings to be suspended if the court finds substantial evidence raises a doubt as to the minor's competency. Existing law requires the court to appoint an expert, as specified, to evaluate whether the minor suffers from a mental disorder, developmental disability or

developmental immaturity, or other condition and, if so, whether the condition impairs the minor's competency. Existing law requires that, if the minor is found to be incompetent by a preponderance of the evidence, all proceedings remain suspended to determine whether there is a substantial probability that the minor will attain competency in the foreseeable future or the court no longer retains jurisdiction.

This bill would eliminate the requirement that the court appoint an expert, as specified, to evaluate whether the minor suffers from a developmental disability, and instead provide that, if the minor is suspected of being developmentally disabled, the court is required to appoint the director of a regional center for developmentally disabled individuals to evaluate the minor, as prescribed, and would make related changes.

(3) Existing law, the California Early Intervention Services Act, provides a statewide system of coordinated, comprehensive, family-centered, multidisciplinary, and interagency programs that are responsible for providing appropriate early intervention services and support to all eligible infants and toddlers, as defined, and their families, and requires an eligible infant or toddler receiving services under the act to have an individualized family service plan (IFSP). Existing law requires direct early intervention services to eligible infants and toddlers and their families to be provided pursuant to the existing regional center system under the Lanterman Developmental Disabilities Services Act and the existing local education agency system, as specified.

This bill would require, at specified times, the consumer of regional center services through either an IPP or IFSP, or the consumer's parent, guardian, or conservator to provide copies of any health benefit cards under which the consumer is eligible to receive health benefits. The bill would prohibit a regional center from using the lack of these benefits to negatively impact the decision as to which services and supports the consumer receives.

(4) Existing law authorizes a regional center, pursuant to vendorization or a contract, to purchase services or supports for a consumer from any individual or agency that the regional center and consumer or, where appropriate, his or her parents, legal guardian, or conservator, or authorized representative, determines will best accomplish all or any part of that consumer's IPP.

This bill would require, on and after July 1, 2012, with specified exceptions, all providers of early intervention services purchased through a regional center and all vendors and contracted providers of services or supports for a consumer purchased through a regional center to submit all billings through the regional center e-billing system Internet Web application provided by the department. The bill would also require, effective July 1, 2011, regional centers to begin transitioning vendors and contracted providers into the regional center e-billing system.

This bill, beginning July 1, 2011, would require any vendor who provides specified services to submit prescribed verification to the regional center for services provided to consumers who are under 18 years of age and residing in the family home, and would make related changes. This bill

would also require the department to adopt regulations to address the use of paraprofessionals, as specified.

(5) Existing law requires the department to establish a prevention program for at-risk babies, as defined, to provide intake, assessment, case management, and referrals to agencies.

This bill would phase out this program by June 30, 2011, and would repeal the current provisions as of January 1, 2013. The bill would, effective July 1, 2011, require the department to contract with an organization representing one or more family resource centers, as defined, to provide outreach, information, and referral services for at-risk babies. The bill would also require regional centers to refer at-risk babies to the family resource centers.

(6) Existing law requires vendors of specified services to provide alternative senior program and alternative customized program components, as specified.

This bill would prohibit a regional center from referring consumers to these programs after July 1, 2011. The bill would authorize a consumer to choose a tailored day service or vouchered community-based training service in lieu of other specified programs.

(7) Existing law requires the Director of Developmental Services to establish, maintain, and revise, as necessary, an equitable process for setting rates of payment for nonresidential services purchased by regional centers.

This bill would require specified programs with a daily rate to bill regional centers for services provided to consumers in terms of half days and full days, as defined.

(8) Under existing law, Medi-Cal benefits include intermediate care facility services for persons with developmental disabilities. Existing law requires certain types of licensed intermediate care facilities for persons with developmental disabilities (ICF-DDs), as specified, to be responsible for providing day treatment and transportation services that are selected and authorized through an IPP, as specified, for each beneficiary receiving those services who resides in that licensed ICF-DD.

Existing law authorizes the department to make a supplemental payment to an enrolled Medi-Cal provider that is a licensed ICF-DD for day treatment and transportation services provided to Medi-Cal beneficiaries residing in the ICF-DDs, and requires the department to amend the regional center contracts for the 2007–08 fiscal year to extend the contract liquidation period until June 30, 2011.

This bill would instead require the department to amend the regional center contracts for the 2007–08 and 2008–09 fiscal years, to extend the contract liquidation period to December 31, 2011, as specified.

(9) Existing law requires the department to adopt regulations that specify rates for community care facilities serving persons with developmental disabilities on the basis of a cost model designed by the department that ensures that aggregate facility payments support the provision of services to each person in accordance with his or her IPP and applicable program requirements.

This bill would, commencing July 1, 2011, authorize a regional center to enter into a signed written agreement with a residential service provider for a consumer's needs to be provided at a lower level of payment than the facility's designated Alternative Residential Model (ARM) service level without adjusting the approved service level.

(10) Existing law requires the department and regional centers to ensure that supported living arrangements for adults with developmental disabilities are made available, as specified.

This bill would revise the provisions relating to supported living arrangements by, among other things, providing for the sharing of tasks, as specified, for consumers who share a household with other adults receiving supported living services. The bill would also require an independent assessment for certain consumers in a supported living arrangement who either are receiving, or initially entering, supported living, who have supported living service costs, or who have an initial recommendation for service costs, that exceeds 125% of the annual statewide average cost of supported living services, as published by the department commencing June 30, 2011. The bill would specify the duties of the department and the regional centers in connection with the reassessment process. This bill would require the regional center, if implementation of the task-sharing or reassessment requirements set forth in the bill would result in a determination of a reduction in services, to inform the consumer of the reason for that determination, and provide the consumer with written notice of specified fair hearing rights.

(11) Existing law establishes the Family Cost Participation Program to collect fees, as prescribed, from families with a child who receives services through the regional center system.

This bill would, effective July 1, 2011, and until June 30, 2013, establish a family program fee, as specified, for families with an adjusted gross family income, as defined, at or above 400% of the federal poverty level and who have a child meeting prescribed requirements, including receiving specified services from a regional center.

(12) Existing law establishes specified state hospitals for the developmentally disabled, including, but not limited to, Porterville Developmental Center, and prohibits the total number of developmental center residents in the secure treatment facility at Porterville Developmental Center from exceeding 297.

This bill would prohibit the total number of developmental center residents in the secure treatment facility at Porterville Developmental Center from exceeding 230, would prohibit the department from admitting any persons into the secure treatment facility until the population is less than 230 persons, and would prohibit the department from admitting more than 104 people who are ineligible to participate in programs certified for federal financial participation into the secure treatment facility.

(13) Existing law requires regional centers to reduce payments for specified services and supports by 3% from February 1, 2009, to June 30, 2010, inclusive, and by 4.25% from July 1, 2010, to June 30, 2012, inclusive,

unless the regional center demonstrates that a nonreduced payment is necessary to protect the health and safety of the individual for whom the services and supports are proposed to be purchased, and the State Department of Developmental Services has granted prior written approval. Existing law excepts from this rate reduction services with usual and customary rates, pursuant to a specified regulation.

This bill would exclude payment for designated services with usual and customary rates from the exception to the above-described rate reduction, thereby making rates for the designated services subject to that reduction.

This bill would also require the department to reimburse the Office of Statewide Audits and Evaluations to conduct a review and analysis of the budget methodology, including relevant data, formulas, and cost assumptions, used in determining the department's annual budget.

(14) This bill would appropriate \$1,000 from the General Fund to the department for departmental support.

(15) This bill would declare that it is to take effect immediately as a bill providing for appropriations related to the Budget Bill.

Appropriation: yes.

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

SECTION 1. Section 95020 of the Government Code is amended to read:

95020. (a) An eligible infant or toddler shall have an individualized family service plan. The individualized family service plan shall be used in place of an individualized education program required pursuant to Sections 4646 and 4646.5 of the Welfare and Institutions Code, the individualized program plan required pursuant to Section 56340 of the Education Code, or any other applicable service plan.

(b) For an infant or toddler who has been evaluated for the first time, a meeting to share the results of the evaluation, to determine eligibility and, for children who are eligible, to develop the initial individualized family service plan shall be conducted within 45 calendar days of receipt of the written referral. Evaluation results and determination of eligibility may be shared in a meeting with the family prior to the individualized family service plan. Written parent consent to evaluate and assess shall be obtained within the 45-day timeline. A regional center, local educational agency, or the designee of one of those entities shall initiate and conduct this meeting. Families shall be afforded the opportunity to participate in all decisions regarding eligibility and services. During intake and assessment, but no later than the IFSP meeting, the parents, legal guardian, or conservator shall provide copies of any health benefit cards under which the consumer is eligible to receive health benefits, including, but not limited to, private health insurance, a health care service plan, Medi-Cal, Medicare, and TRICARE. If the individual, or, where appropriate, the parents, legal guardians, or conservators, have no such benefits, the regional center shall

not use that fact to negatively impact the services that the individual may or may not receive from the regional center.

(c) Parents shall be fully informed of their rights, including the right to invite another person, including a family member or an advocate or peer parent, or any or all of them, to accompany them to any or all individualized family service plan meetings. With parental consent, a referral shall be made to the local family resource center or network.

(d) The individualized family service plan shall be in writing and shall address all of the following:

(1) A statement of the infant's or toddler's present levels of physical development including vision, hearing, and health status, cognitive development, communication development, social and emotional development, and adaptive developments.

(2) With the concurrence of the family, a statement of the family's concerns, priorities, and resources related to meeting the special developmental needs of the eligible infant or toddler.

(3) A statement of the major outcomes expected to be achieved for the infant or toddler and family where services for the family are related to meeting the special developmental needs of the eligible infant or toddler.

(4) The criteria, procedures, and timelines used to determine the degree to which progress toward achieving the outcomes is being made and whether modifications or revisions are necessary.

(5) (A) A statement of the specific early intervention services necessary to meet the unique needs of the infant or toddler as identified in paragraph (3), including, but not limited to, the frequency, intensity, location, duration, and method of delivering the services, and ways of providing services in natural generic environments, including group training for parents on behavioral intervention techniques in lieu of some or all of the in-home parent training component of the behavior intervention services, and purchase of neighborhood preschool services and needed qualified personnel in lieu of infant development programs.

(B) Effective July 1, 2009, at the time of development, review, or modification of an infant's or toddler's individualized family service plan, the regional center shall consider both of the following:

(i) The use of group training for parents on behavior intervention techniques, in lieu of some or all of the in-home parent training component of the behavior intervention services.

(ii) The purchase of neighborhood preschool services and needed qualified personnel, in lieu of infant development programs.

(6) A statement of the agency responsible for providing the identified services.

(7) The name of the service coordinator who shall be responsible for facilitating implementation of the plan and coordinating with other agencies and persons.

(8) The steps to be taken to ensure transition of the infant or toddler upon reaching three years of age to other appropriate services. These may include,

as appropriate, special education or other services offered in natural environments.

(9) The projected dates for the initiation of services in paragraph (5) and the anticipated duration of those services.

(e) Each service identified on the individualized family service plan shall be designated as one of three types:

(1) An early intervention service, as defined in subsection (4) of Section 1432 of Title 20 of the United States Code, and applicable regulations, that is provided or purchased through the regional center, local educational agency, or other participating agency. The State Department of Health Care Services, State Department of Social Services, State Department of Mental Health, and State Department of Alcohol and Drug Programs shall provide services in accordance with state and federal law and applicable regulations, and up to the level of funding as appropriated by the Legislature. Early intervention services identified on an individualized family service plan that exceed the funding, statutory, and regulatory requirements of these departments shall be provided or purchased by regional centers or local educational agencies under subdivisions (b) and (c) of Section 95014. The State Department of Health Care Services, State Department of Social Services, State Department of Mental Health, and State Department of Alcohol and Drug Programs shall not be required to provide early intervention services over their existing funding, statutory, and regulatory requirements.

(2) Another service, other than those specified in paragraph (1), which the eligible infant or toddler or his or her family may receive from other state programs, subject to the eligibility standards of those programs.

(3) A referral to a nonrequired service that may be provided to an eligible infant or toddler or his or her family. Nonrequired services are those services that are not defined as early intervention services or do not relate to meeting the special developmental needs of an eligible infant or toddler related to the disability, but that may be helpful to the family. The granting or denial of nonrequired services by a public or private agency is not subject to appeal under this title. Notwithstanding any other provision of law or regulation to the contrary, effective July 1, 2009, with the exception of durable medical equipment, regional centers shall not purchase nonrequired services, but may refer a family to a nonrequired service that may be available to an eligible infant or toddler or his or her family.

(f) An annual review, and other periodic reviews, of the individualized family service plan for an infant or toddler and the infant's or toddler's family shall be conducted to determine the degree of progress that is being made in achieving the outcomes specified in the plan and whether modification or revision of the outcomes or services is necessary. The frequency, participants, purpose, and required processes for annual and periodic reviews shall be consistent with the statutes and regulations under Part C of the federal Individuals with Disabilities Education Act (20 U.S.C. Sec. 1431 et seq.) and this title, and shall be specified in regulations adopted pursuant to Section 95028. At the time of the review, the parents, legal

guardian, or conservator shall provide copies of any health benefit cards under which the consumer is eligible to receive health benefits, including, but not limited to, private health insurance, a health care service plan, Medi-Cal, Medicare, and TRICARE. If the parents, legal guardian, or conservator have no such benefit cards, the regional center shall not use that fact to negatively impact the services that the individual may or may not receive from the regional center.

SEC. 2. Section 95020.5 is added to the Government Code, to read:

95020.5. (a) Effective July 1, 2011, regional centers shall begin transitioning providers of early intervention services purchased through a regional center to electronic billing. All providers of early intervention services provided or purchased through a regional center shall submit all billings electronically for services provided on or after July 1, 2012, with the exception of the following:

(1) A provider whose services are paid for by vouchers, as that term is defined in subdivision (i) of Section 4512 of the Welfare and Institutions Code.

(2) A provider who demonstrates that submitting billings electronically for services presents a substantial financial hardship.

(b) For purposes of this section, “electronic billing” is defined as the Regional Center e-Billing System web application provided by the State Department of Developmental Services.

SEC. 3. Section 709 of the Welfare and Institutions Code is amended to read:

709. (a) During the pendency of any juvenile proceeding, the minor’s counsel or the court may express a doubt as to the minor’s competency. A minor is incompetent to proceed if he or she lacks sufficient present ability to consult with counsel and assist in preparing his or her defense with a reasonable degree of rational understanding, or lacks a rational as well as factual understanding, of the nature of the charges or proceedings against him or her. If the court finds substantial evidence raises a doubt as to the minor’s competency, the proceedings shall be suspended.

(b) Upon suspension of proceedings, the court shall order that the question of the minor’s competence be determined at a hearing. The court shall appoint an expert to evaluate whether the minor suffers from a mental disorder, developmental immaturity, or other condition and, if so, whether the condition or conditions impair the minor’s competency. The expert shall have expertise in child and adolescent development, and training in the forensic evaluation of juveniles, and shall be familiar with competency standards and accepted criteria used in evaluating competence. If the minor is suspected of being developmentally disabled, the court shall appoint the director of a regional center for developmentally disabled individuals described in Chapter 5 (commencing with Section 4620) of Division 4.5, or his or her designee, to evaluate the minor. The director of the regional center, or his or her designee, shall determine whether the minor has a developmental disability as defined in subdivision (a) of Section 4512, and shall provide the court with a written report informing the court of its

determination. The Judicial Council shall develop and adopt rules for the implementation of these requirements.

(c) If the minor is found to be incompetent by a preponderance of the evidence, all proceedings shall remain suspended for a period of time that is no longer than reasonably necessary to determine whether there is a substantial probability that the minor will attain competency in the foreseeable future, or the court no longer retains jurisdiction. During this time, the court may:

(1) Make orders that it deems appropriate for services that may assist the minor in attaining competency, consistent with the Lanterman Developmental Disabilities Services Act (Division 4.5 (commencing with Section 4500)).

(2) Rule on motions that do not require the participation of the minor in the preparation of the motions. These motions include, but are not limited to:

(A) Motions to dismiss.

(B) Motions by the defense regarding a change in the placement of the minor.

(C) Detention hearings.

(D) Demurrers.

(d) If the minor is found to be competent, the court may proceed commensurate with the court's jurisdiction.

(e) This section applies to a minor who is alleged to come within the jurisdiction of the court pursuant to Section 601 or 602.

SEC. 4. Section 712 of the Welfare and Institutions Code is amended to read:

712. (a) The evaluation ordered by the court under Section 711 shall be made, in accordance with the provisions of Section 741 and Division 4.5 (commencing with Section 4500), by either of the following, as applicable:

(1) For minors suspected to be developmentally disabled, by the director of a regional center or his or her designee, pursuant to subdivision (b) of Section 709.

(2) For all other minors, by an appropriate and licensed mental health professional who meets one or more of the following criteria:

(A) The person is licensed to practice medicine in the State of California and is trained and actively engaged in the practice of psychiatry.

(B) The person is licensed as a psychologist under Chapter 6.6 (commencing with Section 2900) of Division 2 of the Business and Professions Code.

(b) The evaluator selected by the court shall personally examine the minor, conduct appropriate psychological or mental health screening, assessment, or testing, according to a uniform protocol developed by the county mental health department, and prepare and submit to the court a written report indicating his or her findings and recommendations to guide the court in determining whether the minor has a serious mental disorder or is seriously emotionally disturbed, as described in Section 5600.3. If the minor is detained, the examination shall occur within three court days of the court's order of referral for evaluation, and the evaluator's report shall

be submitted to the court not later than five court days after the evaluator has personally examined the minor, unless the submission date is extended by the court for good cause shown.

(c) Based on the written report by the evaluator or the regional center, the court shall determine whether the minor has a serious mental disorder or is seriously emotionally disturbed, as described in Section 5600.3, or has a developmental disability, as defined in Section 4512. If the court determines that the minor has a serious mental disorder, is seriously emotionally disturbed, or has a developmental disability, the case shall proceed as described in Section 713. If the court determines that the minor does not have a serious mental disorder, is not seriously emotionally disturbed, or does not have a developmental disability, the matter shall proceed without the application of Section 713 and in accordance with all other applicable provisions of law.

(d) This section shall not be construed to interfere with the legal authority of the juvenile court or of any other public or private agency or individual to refer a minor for mental health evaluation or treatment as provided in Section 370, 635.1, 704, 741, 5150, 5694.7, 5699.2, 5867.5, or 6551 of this code, or in Section 4011.6 of the Penal Code.

SEC. 5. Section 4435 of the Welfare and Institutions Code is amended to read:

4435. (a) The department shall establish a prevention program for at-risk babies. For purposes of this section, “at-risk baby” means a child under 36 months of age who is otherwise not eligible for the California Early Intervention Program pursuant to Title 14 (commencing with Section 95000) of the Government Code or services provided under the Lanterman Developmental Disabilities Services Act (Division 4.5 (commencing with Section 4500)) and whose genetic, medical, developmental, or environmental history is predictive of a substantially greater risk for developmental disability than that for the general population, the presence of which is diagnosed by qualified clinicians.

(b) This program shall provide intake, assessment, case management, and referral to generic agencies. For purposes of this section, “generic agency” means any agency that has a legal responsibility to serve the general public and that is receiving public funds for providing these services.

(c) The department shall allocate to each regional center, subject to appropriation, specific funding for this program. A regional center’s total expenditures for purchasing or providing services under the prevention program shall not exceed the funding allocated in its contract for this purpose.

(d) Babies identified as being at-risk who are in the prevention program as of June 30, 2011, shall continue in the prevention program until the child reaches 36 months of age, the regional center has determined the child is eligible for services under the California Early Intervention Program pursuant to Title 14 (commencing with Section 95000) of the Government Code or the Lanterman Developmental Disabilities Services Act (Division 4.5

(commencing with Section 4500)), or June 30, 2012, whichever date is earlier.

(e) Effective July 1, 2011, a regional center shall not refer any at-risk babies to the prevention program described in this section.

(f) This section shall become inoperative on July 1, 2012, and, as of January 1, 2013, is repealed, unless a later enacted statute, that becomes operative on or before January 1, 2013, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 6. Section 4435.1 is added to the Welfare and Institutions Code, to read:

4435.1. (a) Effective July 1, 2011, the department shall establish a program for at-risk babies. For purposes of this section, “at-risk baby” means a child under 36 months of age who is otherwise not eligible for the California Early Intervention Program pursuant to Title 14 (commencing with Section 95000) of the Government Code or services provided under the Lanterman Developmental Disabilities Services Act (Division 4.5 (commencing with Section 4500)) and whose genetic, medical, developmental, or environmental history is predictive of a substantially greater risk for developmental disability than that for the general population, the presence of which is diagnosed by qualified clinicians.

(b) Effective July 1, 2011, when a regional center intake and assessment determination is that a baby is an at-risk baby as defined in subdivision (a), the regional center shall, with parental consent, refer the baby and family to the family resource center set forth in subdivision (c) for outreach, information, and referral services.

(c) Effective July 1, 2011, the department shall contract with an organization representing one or more family resource centers which receive federal funds from Subchapter III of the Individuals with Disabilities Education Act (20 U.S.C. Sec. 1431, et seq.) to provide outreach, information, and referral services to generic agencies for children under 36 months of age who are otherwise not eligible for the California Early Intervention Program pursuant to Title 14 (commencing with Section 95000) of the Government Code or services provided under the Lanterman Developmental Disabilities Services Act (Division 4.5 (commencing with Section 4500)). The organization with which the department contracts shall be an organization that supports families of young children with intellectual or developmental disabilities, and those at risk of intellectual or developmental disabilities by ensuring the continuance, expansion, promotion, and quality of local family support services, including coordination, outreach, and referral. Any contracts entered into pursuant to this section shall be exempt from state contracting and procurement requirements set forth in the Government and Public Contract Codes and shall take effect immediately to protect the health and safety of the children receiving the services.

(d) The contract described in subdivision (c) shall do both of the following:

(1) Ensure the expeditious delivery of outreach, information, and referral services to at-risk babies.

(2) Require the organization to establish a process with the applicable regional center or centers for referral of the at-risk baby to the regional center when the family resource center suspects that the child may be eligible for services pursuant to the California Early Intervention Program or the Lanterman Developmental Disabilities Services Act.

SEC. 7. Section 4641.5 is added to the Welfare and Institutions Code, to read:

4641.5. (a) Effective July 1, 2011, regional centers shall begin transitioning all vendors of all regional center services to electronic billing for services purchased through a regional center. All vendors and contracted providers shall submit all billings electronically for services provided on or after July 1, 2012, with the exception of the following:

(1) A vendor or provider whose services are paid for by vouchers, as that term is defined in subdivision (i) of Section 4512 of the Welfare and Institutions Code.

(2) A vendor or provider who demonstrates that submitting billings electronically for services presents a substantial financial hardship for the provider.

(b) For purposes of this section, “electronic billing” is defined as the Regional Center e-Billing System Web application provided by the department.

SEC. 8. Section 4643 of the Welfare and Institutions Code is amended to read:

4643. (a) If assessment is needed, the assessment shall be performed within 120 days following initial intake. Assessment shall be performed as soon as possible and in no event more than 60 days following initial intake where any delay would expose the client to unnecessary risk to his or her health and safety or to significant further delay in mental or physical development, or the client would be at imminent risk of placement in a more restrictive environment. Assessment may include collection and review of available historical diagnostic data, provision or procurement of necessary tests and evaluations, and summarization of developmental levels and service needs and is conditional upon receipt of the release of information specified in subdivision (b).

(b) In determining if an individual meets the definition of developmental disability contained in subdivision (a) of Section 4512, the regional center may consider evaluations and tests, including, but not limited to, intelligence tests, adaptive functioning tests, neurological and neuropsychological tests, diagnostic tests performed by a physician, psychiatric tests, and other tests or evaluations that have been performed by, and are available from, other sources.

(c) At the time of assessment, the individual, or, where appropriate, the parents, legal guardian, or conservator, shall provide copies of any health benefit cards under which the consumer is eligible to receive health benefits, including, but not limited to, private health insurance, a health care service

plan, Medi-Cal, Medicare, and TRICARE. If the individual, or where appropriate, the parents, legal guardians, or conservators, have no such benefits, the regional center shall not use that fact to negatively impact the services that the individual may or may not receive from the regional center.

SEC. 9. Section 4646.4 of the Welfare and Institutions Code is amended to read:

4646.4. (a) Regional centers shall ensure, at the time of development, scheduled review, or modification of a consumer's individual program plan developed pursuant to Sections 4646 and 4646.5, or of an individualized family service plan pursuant to Section 95020 of the Government Code, the establishment of an internal process. This internal process shall ensure adherence with federal and state law and regulation, and when purchasing services and supports, shall ensure all of the following:

(1) Conformance with the regional center's purchase of service policies, as approved by the department pursuant to subdivision (d) of Section 4434.

(2) Utilization of generic services and supports when appropriate.

(3) Utilization of other services and sources of funding as contained in Section 4659.

(4) Consideration of the family's responsibility for providing similar services and supports for a minor child without disabilities in identifying the consumer's service and support needs as provided in the least restrictive and most appropriate setting. In this determination, regional centers shall take into account the consumer's need for extraordinary care, services, supports and supervision, and the need for timely access to this care.

(b) At the time of development, scheduled review, or modification of a consumer's individual program plan developed pursuant to Sections 4646 and 4646.5, or of an individualized family service plan pursuant to Section 95020 of the Government Code, the consumer, or, where appropriate, the parents, legal guardian, or conservator, shall provide copies of their health benefit cards under which the consumer is eligible to receive health benefits, including, but not limited to, private health insurance, a health care service plan, Medi-Cal, Medicare, and TRICARE. If the individual, or, where appropriate, the parents, legal guardians, or conservators, have no such benefits, the regional center shall not use that fact to negatively impact the services that the individual may or may not receive from the regional center.

(c) Final decisions regarding the consumer's individual program plan shall be made pursuant to Section 4646.

(d) Final decisions regarding the individual family support plan shall be made pursuant to Section 95020 of the Government Code.

(e) By no later than April 1, 2009, the department shall provide the fiscal and policy committees of the Legislature with a written update regarding the implementation of this section.

SEC. 10. Section 4646.5 of the Welfare and Institutions Code is amended to read:

4646.5. (a) The planning process for the individual program plan described in Section 4646 shall include all of the following:

(1) Gathering information and conducting assessments to determine the life goals, capabilities and strengths, preferences, barriers, and concerns or problems of the person with developmental disabilities. For children with developmental disabilities, this process should include a review of the strengths, preferences, and needs of the child and the family unit as a whole. Assessments shall be conducted by qualified individuals and performed in natural environments whenever possible. Information shall be taken from the consumer, his or her parents and other family members, his or her friends, advocates, providers of services and supports, and other agencies. The assessment process shall reflect awareness of, and sensitivity to, the lifestyle and cultural background of the consumer and the family.

(2) A statement of goals, based on the needs, preferences, and life choices of the individual with developmental disabilities, and a statement of specific, time-limited objectives for implementing the person's goals and addressing his or her needs. These objectives shall be stated in terms that allow measurement of progress or monitoring of service delivery. These goals and objectives should maximize opportunities for the consumer to develop relationships, be part of community life in the areas of community participation, housing, work, school, and leisure, increase control over his or her life, acquire increasingly positive roles in community life, and develop competencies to help accomplish these goals.

(3) When developing individual program plans for children, regional centers shall be guided by the principles, process, and services and support parameters set forth in Section 4685.

(4) A schedule of the type and amount of services and supports to be purchased by the regional center or obtained from generic agencies or other resources in order to achieve the individual program plan goals and objectives, and identification of the provider or providers of service responsible for attaining each objective, including, but not limited to, vendors, contracted providers, generic service agencies, and natural supports. The individual program plan shall specify the approximate scheduled start date for services and supports and shall contain timelines for actions necessary to begin services and supports, including generic services.

(5) When agreed to by the consumer, the parents or legally appointed guardian of a minor consumer, or the legally appointed conservator of an adult consumer or the authorized representative, including those appointed pursuant to subdivision (d) of Section 4548 and subdivision (e) of Section 4705, a review of the general health status of the adult or child including a medical, dental, and mental health needs shall be conducted. This review shall include a discussion of current medications, any observed side effects, and the date of last review of the medication. Service providers shall cooperate with the planning team to provide any information necessary to complete the health status review. If any concerns are noted during the review, referrals shall be made to regional center clinicians or to the consumer's physician, as appropriate. Documentation of health status and referrals shall be made in the consumer's record by the service coordinator.

(6) (A) The development of a transportation access plan for a consumer when all of the following conditions are met:

(i) The regional center is purchasing private, specialized transportation services or services from a residential, day, or other provider, excluding vouchered service providers, to transport the consumer to and from day or work services.

(ii) The planning team has determined that a consumer's community integration and participation could be safe and enhanced through the use of public transportation services.

(iii) The planning team has determined that generic transportation services are available and accessible.

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

(7) A schedule of regular periodic review and reevaluation to ascertain that planned services have been provided, that objectives have been fulfilled within the times specified, and that consumers and families are satisfied with the individual program plan and its implementation.

(b) For all active cases, individual program plans shall be reviewed and modified by the planning team, through the process described in Section 4646, as necessary, in response to the person's achievement or changing needs, and no less often than once every three years. If the consumer or, where appropriate, the consumer's parents, legal guardian, or conservator requests an individual program plan review, the individual program shall be reviewed within 30 days after the request is submitted.

(c) (1) The department, with the participation of representatives of a statewide consumer organization, the Association of Regional Center Agencies, an organized labor organization representing service coordination staff, and the Organization of Area Boards shall prepare training material and a standard format and instructions for the preparation of individual program plans, which embodies an approach centered on the person and family.

(2) Each regional center shall use the training materials and format prepared by the department pursuant to paragraph (1).

(3) The department shall biennially review a random sample of individual program plans at each regional center to assure that these plans are being developed and modified in compliance with Section 4646 and this section.

SEC. 11. Section 4646.55 of the Welfare and Institutions Code is amended to read:

4646.55. (a) Notwithstanding any other provision of law or regulation to the contrary, and to the extent federal financial participation is available, effective July 1, 2007, the State Department of Developmental Services is hereby authorized to make supplemental payment to an enrolled Medi-Cal

provider that is a licensed intermediate care facility/developmentally disabled-habilitative, licensed intermediate care facility/developmentally disabled-nursing, or licensed intermediate care facility/developmentally disabled, for day treatment and transportation services provided pursuant to Sections 4646 and 4646.5, applicable regulations, and Section 14132.925, to Medi-Cal beneficiaries residing in a licensed intermediate care facility/developmentally disabled-habilitative, licensed intermediate care facility/developmentally disabled-nursing, or licensed intermediate care facility/developmentally disabled. These payments shall be considered supplemental payments to the enrolled Medi-Cal provider and shall be comprised of the full costs of reimbursing regional centers for making disbursements to day treatment and transportation service providers, plus a coordination fee which will include an administrative fee and reimbursement for the increased costs associated with the quality assurance fee paid accordingly and without a separate State Department of Developmental Services contract.

(b) Notwithstanding any other provision of law and to the extent federal financial participation is available, and in furtherance of this section and Section 14132.925, the State Department of Developmental Services shall amend the regional center contracts for the 2007–08 and 2008–09 fiscal years to extend the contract liquidation period until December 31, 2011. The contract amendments and budget adjustments shall be exempt from the provisions of Article 1 (commencing with Section 4620).

SEC. 12. Section 4648.35 of the Welfare and Institutions Code is amended to read:

4648.35. At the time of development, review, or modification of a consumer's individual program plan (IPP) or individualized family service plan (IFSP), all of the following shall apply to a regional center:

(a) A regional center shall not fund private specialized transportation services for an adult consumer who can safely access and utilize public transportation, when that transportation is available.

(b) A regional center shall fund the least expensive transportation modality that meets the consumer's needs, as set forth in the consumer's IPP or IFSP.

(c) A regional center shall fund transportation, when required, from the consumer's residence to the lowest-cost vendor that provides the service that meets the consumer's needs, as set forth in the consumer's IPP or IFSP. For purposes of this subdivision, the cost of a vendor shall be determined by combining the vendor's program costs and the costs to transport a consumer from the consumer's residence to the vendor.

(d) A regional center shall fund transportation services for a minor child living in the family residence, only if the family of the child provides sufficient written documentation to the regional center to demonstrate that it is unable to provide transportation for the child.

SEC. 13. Section 4648.55 is added to the Welfare and Institutions Code, to read:

4648.55. (a) A regional center shall not purchase day program, vocational education, work services, independent living program, or mobility training and related transportation services for a consumer who is 18 to 22 years of age, inclusive, if that consumer is eligible for special education and related education services and has not received a diploma or certificate of completion, unless the individual program plan (IPP) planning team determines that the consumer's needs cannot be met in the educational system or grants an exemption pursuant to subdivision (d). If the planning team determines that generic services can meet the consumer's day, vocational education, work services, independent living, or mobility training and related transportation needs, the regional center shall assist the consumer in accessing those services. To ensure that consumers receive appropriate educational services and an effective transition from services provided by educational agencies to services provided by regional centers, the regional center service coordinator, at the request of the consumer or, where appropriate, the consumer's parent, legal guardian, or conservator, may attend the individualized education program (IEP) planning team meeting.

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

(c) For consumers who are 18 to 22 years of age, inclusive, who have left school prior to enactment of this section, but who are not receiving any of the regional center purchased services identified in subdivision (a), the regional center shall use generic education services to meet the consumer's day, vocational education, work services, independent living, or mobility training and related transportation needs if those needs are subsequently identified in the IPP unless the consumer is eligible for an exemption as set forth in subdivision (d). If the planning team determines that generic services can meet the consumer's day, vocational education, work services, independent living, or mobility training and related transportation needs, the regional center shall assist the consumer in accessing those services.

(d) An exemption to the provisions of this section may be granted on an individual basis in extraordinary circumstances to permit purchase of a service identified in subdivision (a). An exemption shall be granted through the IPP process and shall be based on a determination that the generic service is not appropriate to meet the consumer's need. The consumer shall be informed of the exemption and the process for obtaining an exemption.

(e) A school district may contract with regional center vendors to meet the needs of consumers pursuant to this section.

SEC. 14. Section 4681.7 is added to the Welfare and Institutions Code, to read:

4681.7. (a) Effective July 1, 2011, in order to maintain a consumer's preferred living arrangement and adjust the residential services and supports in accordance with changing service needs identified in the individual program plan (IPP), a regional center may enter into a signed written agreement with a residential service provider for a consumer's supervision, training, and support needs to be provided at a lower level of payment than the facility's designated Alternative Residential Model (ARM) service level. The regional center signed written agreement with the provider shall ensure all of the following:

(1) Services provided to other facility residents comply with the applicable service requirements for the facility's approved service level pursuant to Section 4681.1 and Title 17 of the California Code of Regulations.

(2) Protection of the health and safety of each facility resident.

(3) Identification of the revised services and supports to be provided to the consumer within the ARM rate structure as part of the establishment or revision of an IPP.

(4) Identification of the rate.

(b) If the service needs of a consumer referred to in subdivision (a) change such that the consumer requires a higher level of supervision, training, and support, the regional center shall adjust the consumer's service level and rate to meet the consumer's changing needs.

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

(d) Any negotiated lower level of payment pursuant to this section shall be consistent with the payment options within the ARM rate structure and with associated ARM service level requirements.

SEC. 15. Section 4686.3 is added to the Welfare and Institutions Code, to read:

4686.3. The department shall adopt emergency regulations to address the use of paraprofessionals in group practice provider behavioral intervention services and establish a rate. The regulations shall also establish a rate and the educational or experiential qualifications and professional supervision requirements necessary for the paraprofessional to provide behavioral intervention services. The adoption, amendment, repeal, or readoption of a regulation authorized by this section is deemed to be necessary for the immediate preservation of the public peace, health and safety, or general welfare, for purposes of Sections 11346.1 and 11349.6

of the Government Code, and the department is hereby exempted from the requirement that it describe specific facts showing the need for immediate action. A certificate of compliance for these implementing regulations shall be filed within 24 months following the adoption of the first emergency regulations filed pursuant to this section.

SEC. 16. Section 4686.31 is added to the Welfare and Institutions Code, to read:

4686.31. (a) Effective July 1, 2011, notwithstanding any other law or regulation to the contrary, any vendor who provides services as specified in paragraph (4) shall submit verification to the regional center for services provided to consumers who are under 18 years of age and residing in the family home as follows:

(1) The department shall develop and post a standard form for vendors to complete and provide to the family for signature. The form shall include, but not be limited to, the name and title of the vendor, the vendor identification number, the name of the consumer, the unique client identifier, the location of the service, the date and start and end times of the service, and a description of the service provided. The form shall also include instructions for the parents or legally appointed guardians to contact the regional center service coordinator immediately if they are unable to sign the form.

(2) The vendor shall provide the parents or legally appointed guardians of a minor consumer with the department form to sign. The form shall be signed and dated by the parents or legally appointed guardians of a minor consumer and be submitted to the vendor providing services within 30 days of the month in which the services were provided.

(3) The vendor shall submit the completed forms to the regional center together with the vendor's invoices for the services provided.

(4) If the parents or legally appointed guardians of a minor consumer do not submit a form to the vendor, the vendor shall notify the regional center.

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

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

SEC. 17. Section 4688.1 of the Welfare and Institutions Code is amended to read:

4688.1. (a) Notwithstanding any other provision of law or regulation to the contrary, vendors of behavior management, activity center, and adult development center day programs, social recreation programs, socialization

training programs, community integration training programs, community activities support programs, creative art programs, and work activity programs shall offer an alternative senior program component focused on the needs of individuals with developmental disabilities who are over 50 years of age, at a rate not to exceed the lesser of thirty-five dollars (\$35) per day or the vendor's existing daily rate.

(1) The alternative senior program component shall be provided at a ratio of no more than eight consumers to one staff member.

(2) Consistent with the intent of the Lanterman Developmental Disabilities Services Act, the alternative senior program component shall be offered within the provider's existing vendored capacity as reflected in its program design or licensed capacity.

(b) Effective July 1, 2009, at the time of development, review, or modification of an eligible consumer's individual program plan, regional centers, as appropriate, shall provide information about and offer an alternative senior program. The alternative senior program shall be offered to eligible consumers who want to transition to a program component focused on the needs and interests of seniors.

(c) Effective July 1, 2011, a regional center shall not refer any additional consumers to alternative senior programs.

SEC. 18. Section 4688.2 of the Welfare and Institutions Code is amended to read:

4688.2. (a) Notwithstanding any other provision of law or regulation to the contrary, vendors of behavior management, activity center, and adult development center adult day programs, community integration training programs, and community activities support services programs shall offer an alternative customized program component with an appropriate staffing component to meet individualized consumer needs.

(1) The alternative customized program component shall be offered within the provider's existing vendored capacity, as reflected in its program design or licensed capacity.

(2) The regional center shall fund customized programs based on the vendor's existing rate and only fund those hours provided.

(b) Effective July 1, 2009, at the time of development, review, or modification of a consumer's individual program plan, regional centers, as appropriate, shall provide information about and make available the customized program option.

(1) The alternative customized program component shall be offered to individuals with developmental disabilities who want a program focused on their individualized needs and interests to develop or maintain employment or volunteer activities in lieu of their current program.

(2) Total hours of service for this alternative customized program shall range between 20 and 80 hours per month, per person, depending on the support needs of the individual.

(c) Effective July 1, 2011, a regional center shall not refer any additional consumers to alternative customized programs.

SEC. 19. Section 4688.21 is added to the Welfare and Institutions Code, to read:

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

(b) (1) A tailored day service shall do both of the following:

(A) Include an individualized service design, as determined through the individual program plan (IPP) and approved by the regional center, that maximizes the consumer's individualized choices and needs. This service design may include, but may not be limited to, the following:

(i) Fewer days or hours than in the program's approved day program, look-alike day program, supported employment program, or work activity program design.

(ii) Flexibility in the duration and intensity of services to meet the consumer's individualized needs.

(B) Encourage opportunities to further the development or maintenance of employment, volunteer activities, or pursuit of postsecondary education; maximize consumer direction of the service; and increase the consumer's ability to lead an integrated and inclusive life.

(2) The type and amount of tailored day service shall be determined through the IPP process, pursuant to Section 4646. The IPP shall contain, but not be limited to, the following:

(A) A detailed description of the consumer's individualized choices and needs and how these choices and needs will be met.

(B) The type and amount of services and staffing needed to meet the consumer's individualized choices and needs, and unique health and safety and other needs.

(3) The staffing requirements set forth in Section 55756 of Title 17 of the California Code of Regulations and subdivision (r) of Section 4851 shall not apply to a tailored day service.

(4) For currently vendored programs wishing to offer a tailored day service option, the regional center shall vendor a tailored day service option upon negotiating a rate and maximum units of service design that includes, but is not limited to, the following:

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

(ii) A rate and maximum units of service design that does not exceed the equivalent cost of four-fifths of the hours of the vendor's current rate, if the vendor has an hourly rate.

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

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

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

(c) (1) A vouchered community-based training service is defined as a consumer-directed service that assists the consumer in the development of skills required for community integrated employment or participation in volunteer activities, or both, and the assistance necessary for the consumer to secure employment or volunteer positions or pursue secondary education.

(2) Implementation of vouchered community-based training service is contingent upon the approval of the federal Centers for Medicare and Medicaid Services.

(3) Vouchered community-based training service shall be provided in natural environments in the community, separate from the consumer's residence.

(4) A consumer, parent, or conservator vendored as a vouchered community-based training service shall utilize the services of a financial management services (FMS) entity. The regional center shall provide information about available financial management services and shall assist the consumer in selecting a FMS vendor to act as coemployer.

(5) A parent or conservator shall not be the direct support worker employed by the vouchered community-based training service vendor.

(6) If the direct support worker is required to transport the consumer, the vouchered community-based training service vendor shall verify that the direct support worker can transport the consumer safely and has a valid California driver's license and proof of insurance.

(7) The rate for vouchered community-based training service shall not exceed thirteen dollars and forty-seven cents (\$13.47) per hour. The rate includes employer-related taxes and all transportation needed to implement the service, except as described in paragraph (8). The rate does not include the cost of the FMS.

(8) A consumer vendored as a vouchered community-based training service shall also be eligible for a regional center-funded bus pass, if appropriate and needed.

(9) Vouchered community-based training service shall be limited to a maximum of 150 hours per quarter. The services to be provided and the service hours shall be documented in the consumer's IPP.

(10) A direct support worker of vouchered community-based training service shall be an adult who possesses the skill, training, and experience necessary to provide services in accordance with the IPP.

(11) Effective July 1, 2011, and prior to the time of development, review, or modification of a consumer's IPP, regional centers shall provide information about vouchered community-based training service to eligible adult consumers. A consumer may request information about vouchered community-based training service from the regional center at any time and may request an IPP meeting to secure those services.

(12) The type and amount of vouchered community-based training service shall be determined through the IPP process pursuant to Section 4646. The IPP shall contain, but not be limited to, the following:

(A) A detailed description of the consumer's individualized choices and needs and how these choices and needs will be met.

(B) The type and amount of services and staffing needed to meet the consumer's individualized choices and unique health and safety and other needs.

(d) The department may adopt emergency regulations for tailored day service or vouchered community-based training service. The adoption, amendment, repeal, or readoption of a regulation authorized by this subdivision is deemed to be necessary for the immediate preservation of the public peace, health and safety, or general welfare, for purposes of Sections 11346.1 and 11349.6 of the Government Code, and the department is hereby exempted from the requirement that it describe specific facts showing the need for immediate action. A certificate of compliance for these implementing regulations shall be filed within 24 months following the adoption of the first emergency regulations filed pursuant to this subdivision.

SEC. 20. Section 4689 of the Welfare and Institutions Code is amended to read:

4689. Consistent with state and federal law, the Legislature places a high priority on providing opportunities for adults with developmental disabilities, regardless of the degree of disability, to live in homes that they own or lease with support available as often and for as long as it is needed, when that is the preferred objective in the individual program plan. In order to provide opportunities for adults to live in their own homes, the following procedures shall be adopted:

(a) The department and regional centers shall ensure that supported living arrangements adhere to the following principles:

(1) Consumers shall be supported in living arrangements which are typical of those in which persons without disabilities reside.

(2) The services or supports that a consumer receives shall change as his or her needs change without the consumer having to move elsewhere.

(3) The consumer's preference shall guide decisions concerning where and with whom he or she lives.

(4) Consumers shall have control over the environment within their own home.

(5) The purpose of furnishing services and supports to a consumer shall be to assist that individual to exercise choice in his or her life while building critical and durable relationships with other individuals.

(6) The services or supports shall be flexible and tailored to a consumer's needs and preferences.

(7) Services and supports are most effective when furnished where a person lives and within the context of his or her day-to-day activities.

(8) Consumers shall not be excluded from supported living arrangements based solely on the nature and severity of their disabilities.

(b) Regional centers may contract with agencies or individuals to assist consumers in securing their own homes and to provide consumers with the supports needed to live in their own homes.

(c) The range of supported living services and supports available include, but are not limited to, assessment of consumer needs; assistance in finding, modifying and maintaining a home; facilitating circles of support to encourage the development of unpaid and natural supports in the community; advocacy and self-advocacy facilitation; development of employment goals; social, behavioral, and daily living skills training and support; development and provision of 24-hour emergency response systems; securing and maintaining adaptive equipment and supplies; recruiting, training, and hiring individuals to provide personal care and other assistance, including in-home supportive services workers, paid neighbors, and paid roommates; providing respite and emergency relief for personal care attendants; and facilitating community participation. Assessment of consumer needs may begin before 18 years of age to enable the consumer to move to his or her own home when he or she reaches 18 years of age.

(d) Regional centers shall provide information and education to consumers and their families about supported living principles and services.

(e) Regional centers shall monitor and ensure the quality of services and supports provided to individuals living in homes that they own or lease. Monitoring shall take into account all of the following:

(1) Adherence to the principles set forth in this section.

(2) Whether the services and supports outlined in the consumer's individual program plan are congruent with the choices and needs of the individual.

(3) Whether services and supports described in the consumer's individual program plan are being delivered.

(4) Whether services and supports are having the desired effects.

(5) Whether the consumer is satisfied with the services and supports.

(f) The planning team, established pursuant to subdivision (j) of Section 4512, for a consumer receiving supported living services shall confirm that all appropriate and available sources of natural and generic supports have been utilized to the fullest extent possible for that consumer.

(g) Regional centers shall utilize the same supported living provider for consumers who reside in the same domicile, provided that each individual consumer's particular needs can still be met pursuant to his or her individual program plans.

(h) Rent, mortgage, and lease payments of a supported living home and household expenses shall be the responsibility of the consumer and any roommate who resides with the consumer.

(i) A regional center shall not make rent, mortgage, or lease payments on a supported living home, or pay for household expenses of consumers receiving supported living services, except under the following circumstances:

(1) If all of the following conditions are met, a regional center may make rent, mortgage, or lease payments as follows:

(A) The regional center executive director verifies in writing that making the rent, mortgage, or lease payments or paying for household expenses is required to meet the specific care needs unique to the individual consumer as set forth in an addendum to the consumer's individual program plan, and is required when a consumer's demonstrated medical, behavioral, or psychiatric condition presents a health and safety risk to himself or herself, or another.

(B) During the time period that a regional center is making rent, mortgage, or lease payments, or paying for household expenses, the supported living services vendor shall assist the consumer in accessing all sources of generic and natural supports consistent with the needs of the consumer.

(C) The regional center shall not make rent, mortgage, or lease payments on a supported living home or pay for household expenses for more than six months, unless the regional center finds that it is necessary to meet the individual consumer's particular needs pursuant to the consumer's individual program plan. The regional center shall review a finding of necessity on a quarterly basis and the regional center executive director shall annually verify in an addendum to the consumer's individual program plan that the requirements set forth in subparagraph (A) continue to be met.

(2) A regional center that has been contributing to rent, mortgage, or lease payments or paying for household expenses prior to July 1, 2009, shall at the time of development, review, or modification of a consumer's individual program plan determine if the conditions in paragraph (1) are met. If the planning team determines that these contributions are no longer appropriate under this section, a reasonable time for transition, not to exceed six months, shall be permitted.

(j) All paid roommates and live-in support staff in supported living arrangements in which regional centers have made rent, mortgage, or lease payments, or have paid for household expenses pursuant to subdivision (i) shall pay their share of the rent, mortgage, or lease payments or household expenses for the supported living home, subject to the requirements of Industrial Welfare Commission Order No. 15-2001 and the Housing Choice Voucher Program, as set forth in Section 1437f of Title 42 of the United States Code.

(k) Regional centers shall ensure that the supported living services vendors' administrative costs are necessary and reasonable, given the particular services that they are providing and the number of consumers to whom the vendor provides services. Administrative costs shall be limited

to allowable costs for community-based day programs, as defined in Section 57434 of Title 17 of the California Code of Regulations, or its successor.

(l) Regional centers shall ensure that the most cost-effective of the rate methodologies is utilized to determine the negotiated rate for vendors of supported living services, consistent with Section 4689.8 and Title 17 of the California Code of Regulations.

(m) For purposes of this section, “household expenses” means general living expenses and includes, but is not limited to, utilities paid and food consumed within the home.

(n) A supported living services provider shall provide assistance to a consumer who is a Medi-Cal beneficiary in applying for in-home supportive services, as set forth in Section 12300, within five days of the consumer moving into a supported living services arrangement.

(o) For consumers receiving supported living services who share a household with one or more adults receiving supported living services, efficiencies in the provision of service may be achieved if some tasks can be shared, meaning the tasks can be provided at the same time while still ensuring that each person’s individual needs are met. These tasks shall only be shared to the extent they are permitted under the Labor Code and related regulations, including, but not limited to, Industrial Welfare Commission Minimum Wage Order No. 15. The planning team, as defined in subdivision (j) of Section 4512, at the time of development, review, or modification of a consumer’s individual program plan (IPP), for housemates currently in a supported living arrangement or planning to move together into a supported living arrangement, or for consumers who live with a housemate not receiving supported living services who is responsible for the task, shall consider, with input from the service provider, whether any tasks, such as meal preparation and cleanup, menu planning, laundry, shopping, general household tasks, or errands can appropriately be shared. If tasks can be appropriately shared, the regional center shall purchase the prorated share of the activity. Upon a determination of a reduction in services pursuant to this section, the regional center shall inform the consumer of the reason for the determination, and shall provide a written notice of fair hearing rights pursuant to Section 4701.

(p) To ensure that consumers in supported living arrangements receive the appropriate amount and type of supports, an independent assessment shall be required for consumers currently receiving, or initially entering, supported living who have supported living services costs, or have an initial recommendation for service costs, that exceed 125 percent of the annual statewide average cost of supported living services, as published by the department commencing June 30, 2011. Notwithstanding any other provision of law, commencing July 1, 2011, regional centers shall identify consumers currently receiving supported living services, pursuant to this section, whose annual supported living service costs exceed 125 percent of the annual statewide average cost of supported living services. The regional center shall also identify consumers who have an initial recommendation for supported living service costs that exceed 125 percent of the annual statewide

average cost of supported living services. For those consumers identified pursuant to this subdivision, the regional center shall arrange for an independent assessment to be completed prior to the next scheduled IPP for consumers currently in a supported living arrangement and within 30 days of identification of consumers with an initial recommendation for services. The independent assessment shall be completed by an impartial entity or individual other than the supported living services agency providing, or planning to provide, the service and shall be used during IPP meetings to assist the team to determine whether the services provided or recommended are necessary and sufficient and that the most cost-effective methods of service are utilized. Decisions about supported living shall be made by the IPP team. The independent assessment process shall adhere to all of the following:

(1) Supported living service providers shall conduct comprehensive assessments for the purpose of getting to know the consumer they will be supporting and developing a support plan congruent with the choices and needs of the individual and consistent with the principles of supported living set forth in this section and in Subchapter 19 (commencing with Section 58600) of Chapter 3 of Division 2 of Title 17 of the California Code of Regulations. The independent assessment required by this paragraph is not intended to take the place of or repeat the service provider's comprehensive assessment. The purpose of the independent assessment is to provide an additional look at whether the supported living services being provided, or being proposed for a person initially entering supported living, are necessary, sufficient, or cost-effective to meet the person's choices and needs, as determined by the comprehensive assessment and the planning team. The independent needs assessment may include, but is not limited to, use of natural and generic support, technology that provides support otherwise necessary through direct staffing hours, shared housing, support alternatives, learning methods, lifting and transferring, bathroom, grooming, meals, communication, transportation, mobility, emergency procedures, medication management, household responsibilities, personal needs, interpersonal relationships, and behavioral, medical, and overnight supports.

(2) A consumer shall not be excluded from supported living services based on an independent assessment.

(3) The entity or individual conducting independent assessments shall not be an employee of a regional center or the consumer's service provider. Current supported living providers may conduct independent assessments for consumers being supported, or about to be supported, by other providers. However a provider who conducts an independent assessment may not provide direct services to a consumer it has assessed for a period of one year. Each regional center shall publicly identify the entities and individuals it will use to conduct independent assessments. Regional centers shall ensure there are sufficient independent assessors so that assessments can be provided when required without undue delay.

(4) Initial entry into supported living shall not be delayed for more than 30 days following the determination to request an independent assessment

due to the need for an independent assessment pursuant to this section. If the independent assessment cannot be conducted within that time period, the individual may move into supported living with the amount of supports recommended by the service provider's comprehensive assessment and an additional IPP to consider the results of the independent assessment shall be conducted when that assessment becomes available, if necessary. For individuals currently in a supported living arrangement, supports shall continue at the same level while the independent assessment is being conducted.

(5) Independent assessors shall meet all of the following qualifications:

(A) Have a demonstrated understanding of the foundation of supported living as a service that assists an individual to live in his or her own home with supports as needed to be part of their community and of the principles and operational requirements of supported living set forth in this section and in Subchapter 19 (commencing with Section 58600) of Chapter 3 of Division 2 of Title 17 of the California Code of Regulations.

(B) Have a demonstrated understanding of the IPP process and the legal rights of people with developmental disabilities in California.

(C) Have experience with the provision of supported living services in California.

(6) The department shall establish a rate of payment for an independent assessment.

(7) The planning team, as defined in subdivision (j) of Section 4512, shall consider the independent assessment along with the provider's assessment, if available, and any other relevant information in determining whether there should be any adjustment to the amount or type of supports currently being received by individuals in supported living arrangement or recommended for individuals initially entering supported living arrangement. Any decisions to reduce supports shall not be applied retroactively.

(8) A consumer shall be reassessed as described in this subdivision every three years in conjunction with the consumer's IPP review to determine whether all services are necessary and sufficient and to ensure that the most cost-effective methods of service are being utilized.

(9) Individuals who are moving to a supported living arrangement or have moved to a supported living arrangement from a developmental center or state-operated community facility shall not be required to have an additional assessment during the first 12 months following placement.

(10) Upon a determination of a reduction in services pursuant to this section, the regional center shall inform the consumer of the reason for the determination, and shall provide a written notice of fair hearing rights pursuant to Section 4701.

(11) Nothing in this section precludes the completion of an independent assessment for other purposes.

SEC. 21. Section 4690.6 is added to the Welfare and Institutions Code, to read:

4690.6. (a) Activity centers, adult development centers, behavior management programs, and other look-alike day programs with a daily rate

shall bill regional centers for services provided to consumers in terms of half days of service and full days of service.

(b) For purposes of this section, the following definitions apply:

(1) "Full day of service" means a day in which the consumer's attendance is at least 65 percent of the declared and approved program day.

(2) "Half day of service" means any day in which the consumer's attendance does not meet the criteria for billing for a full day of service.

(c) A regional center may change the length of the declared and approved program day for a specific consumer in order to meet the needs of that consumer, upon the recommendation of the individual program planning team. The regional center shall set forth in the individual program plan the length of the consumer's program day and the reasons for the change in the length of the declared and approved program day.

(d) The definitions set forth in this section shall not apply to vendors of tailored day program service.

SEC. 22. Section 4785 is added to the Welfare and Institutions Code, to read:

4785. (a) (1) Effective July 1, 2011, a regional center shall assess an annual family program fee, as described in subdivision (b), from parents whose adjusted gross family income is at or above 400 percent of the federal poverty level based upon family size and who have a child to whom all of the following apply:

(A) The child has a developmental disability or is eligible for services under the California Early Intervention Services Act (Title 14 (commencing with Section 95000) of the Government Code).

(B) The child is less than 18 years of age.

(C) The child lives with his or her parent.

(D) The child or family receives services beyond eligibility determination, needs assessment, and service coordination.

(E) The child does not receive services through the Medi-Cal program.

(2) An annual family program fee shall not be assessed or collected pursuant to this section if the child receives only respite, day care, or camping services from the regional center, and a cost for participation is assessed to the parents under the Family Cost Participation Program.

(3) The annual family program fee shall be initially assessed by a regional center at the time of the development, scheduled review, or modification of the individual program plan (IPP) pursuant to Sections 4646 and 4646.5, or the individualized family services plan (IFSP) pursuant to Section 95020 of the Government Code, but no later than June 30, 2012, and annually thereafter.

(4) Application of this section to children zero through two years of age, inclusive, shall be contingent upon necessary approval by the United States Department of Education.

(b) (1) The annual family program fee for parents described in paragraph (1) of subdivision (a) shall be two hundred dollars (\$200) per family, regardless of the number of children in the family with developmental

disabilities or who are eligible for services under the California Early Intervention Services Act.

(2) Notwithstanding paragraph (1), parents described in paragraph (1) of subdivision (a) who demonstrate to the regional center that their adjusted gross family income is less than 800 percent of the federal poverty level shall be required to pay an annual family program fee of one hundred fifty dollars (\$150) per family, regardless of the number of children in the family with developmental disabilities or who are eligible for services under the California Early Intervention Services Act.

(c) At the time of intake or at the time of development, scheduled review, or modification of a consumer's IPP or IFSP, but no later than June 30, 2012, the regional center shall provide to parents described in paragraph (1) of subdivision (a) a form and an envelope for the mailing of the annual family program fee to the department. The form, which shall include the name of the children in the family currently being served by a regional center and their unique client identifiers, shall be sent, with the family's annual program fee, to the department.

(d) The department shall notify each regional center at least quarterly of the annual family program fees collected.

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

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

(1) That the exemption is necessary to maintain the child in the family home.

(2) The existence of an extraordinary event that impacts the parents' ability to pay the fee or the parents' ability to meet the care and supervision needs of the child.

(3) The existence of a catastrophic loss that temporarily limits the ability of the parents to pay and creates a direct economic impact on the family. For purposes of this paragraph, catastrophic loss may include, but is not limited to, natural disasters, accidents involving, or major injuries to, an immediate family member, and extraordinary medical expenses.

(g) Services shall not be delayed or denied for a consumer or child based upon the lack of payment of the annual family program fee.

(h) For purposes of this section, "parents" means the parents, whether natural, adoptive, or both, of a child with developmental disabilities under 18 years of age.

(i) Parents described in paragraph (1) of subdivision (a) shall be jointly and severally responsible for the annual family program fee, unless a court order directs otherwise.

(j) (1) “Total adjusted gross family income” means income acquired, earned, or received by parents as payment for labor or services, support, gift, or inheritance, or parents’ return on investments. It also includes the community property interest of a parent in the gross adjusted income of a stepparent.

(2) The total adjusted gross family income shall be determined by adding the gross income of both parents, regardless of whether they are divorced or legally separated, unless a court order directs otherwise, or unless the custodial parent certifies in writing that income information from the noncustodial parent cannot be obtained from the noncustodial parent and in this circumstance only the income of the custodial parent shall be used to determine the annual family program fee.

(k) This section shall become inoperative on June 30, 2013, and as of January 1, 2014, is repealed, unless a later enacted statute, that becomes operative on or before June 30, 2013, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 23. Section 7502.5 of the Welfare and Institutions Code is amended to read:

7502.5. (a) The total number of developmental center residents in the secure treatment facility at Porterville Developmental Center, including those residents receiving services in the Porterville Developmental Center transition treatment program, shall not exceed 230.

(b) As of the effective date of this subdivision, the State Department of Developmental Services shall not admit any persons into the secure treatment facility at Porterville Developmental Center until the population of the secure treatment facility is less than 230 persons.

(c) To maximize federal financial participation, the State Department of Developmental Services shall not admit any more than 104 people who are ineligible to participate in programs certified for federal financial participation into the secure treatment facility at Porterville Developmental Center.

SEC. 24. Section 10 of Chapter 13 of the Third Extraordinary Session of the Statutes of 2009, as amended by Section 16 of Chapter 9 of the Statutes of 2011, is amended to read:

Sec. 10. (a) Notwithstanding any other provision of law, in order to implement changes in the level of funding for regional center purchase of services, regional centers shall reduce payments for services and supports provided pursuant to Title 14 (commencing with Section 95000) of the Government Code and Division 4.1 (commencing with Section 4400) and Division 4.5 (commencing with Section 4500) of the Welfare and Institutions Code. From February 1, 2009, to June 30, 2010, inclusive, regional centers shall reduce all payments for these services and supports paid from purchase of services funds for services delivered on or after February 1, 2009, by 3 percent, and from July 1, 2010, to June 30, 2012, inclusive, by 4.25 percent,

unless the regional center demonstrates that a nonreduced payment is necessary to protect the health and safety of the individual for whom the services and supports are proposed to be purchased, and the State Department of Developmental Services has granted prior written approval.

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

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

(2) Services with “usual and customary” rates established pursuant to Section 57210 of Title 17 of the California Code of Regulations, except as provided in subdivision (c).

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

(c) The exemption provided for in paragraph (2) of subdivision (b) shall not apply to payments for any of the following services:

(1) Crisis and behavioral services provided by a nationally certified or state-licensed professional, consistent with the professional’s scope of practice, as set forth in the Business and Professions Code.

(2) Services of group practices providing behavioral intervention.

(3) Parent-coordinator home-based behavioral intervention for children with autism.

(4) Individual or family training.

(5) Registered nurse services.

(6) Therapy services, including physical, speech, occupational, recreational, and music therapy.

(7) Audiology services.

(8) Independent living specialist services.

(9) Translator and interpreter services.

(10) Mobility training, socialization training, or community integration training services.

(11) Community activities support, program support, or parenting support services.

(12) Personal assistance services.

(13) Tutoring services.

(14) Creative arts services.

(15) Early start specialized therapeutic services.

(d) Notwithstanding any other provision of law, in order to implement changes in the level of funding appropriated for regional centers, the department shall amend regional center contracts to adjust regional center budgets accordingly for the 2008–09 fiscal year through the 2011–12 fiscal year. The contract amendments and budget adjustments shall be exempt from the provisions of Article 1 (commencing with Section 4620) of Chapter 5 of Division 4.5 of the Welfare and Institutions Code.

SEC. 25. Due to a change in the availability of federal funding that addresses California’s ability to capture additional federal financial participation for day treatment and transportation services provided to a

Medi-Cal beneficiary residing in a licensed intermediate care facility, as specified in Sections 4646.55 and 14132.925 of the Welfare and Institutions Code, funds appropriated in the following budget items shall be available for liquidation until December 31, 2011:

(a) Item 4300-101-0001 of the Budget Act of 2007 (Chapters 171 and 172, Statutes of 2007), as previously reappropriated by Chapter 268 of the Statutes of 2008.

(b) Item 4300-101-0001 of the Budget Act of 2008 (Chapters 268 and 269, Statutes of 2008).

SEC. 26. The State Department of Developmental Services (DDS) shall reimburse the Office of Statewide Audits and Evaluations (OSAE) within the Department of Finance to conduct a review and analysis of the budget methodology, including relevant data, formulas, and cost assumptions, used in determining the annual state budget for the developmental centers. The DDS shall provide information to the OSAE as necessary for it to complete its analysis and provide recommendations. It is the Legislature's intent for the DDS to notify the OSAE and to proceed with this analysis during the fall of 2011.

SEC. 27. The sum of one thousand dollars (\$1,000) is hereby appropriated from the General Fund to the State Department of Developmental Services for departmental support.

SEC. 28. This act is a bill providing for appropriations related to the Budget Bill within the meaning of subdivision (e) of Section 12 of Article IV of the California Constitution, has been identified as related to the budget in the Budget Bill, and shall take effect immediately.