

AMENDED IN ASSEMBLY MAY 27, 2016

AMENDED IN ASSEMBLY MAY 4, 2016

AMENDED IN ASSEMBLY MARCH 18, 2016

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 2809

Introduced by Assembly Member Rodriguez

February 19, 2016

An act to amend Sections 4646.5, 4648, and 4686.2 of, and to add Section 4646.45 to, the Welfare and Institutions Code, relating to developmental services.

LEGISLATIVE COUNSEL'S DIGEST

AB 2809, as amended, Rodriguez. Developmental services: regional centers.

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). The act requires these services to be provided pursuant to the existing regional center system under the Lanterman Developmental Disabilities Service Act.

Under existing law, the Lanterman Developmental Disabilities Services Act, the State Department of Developmental Services is responsible for providing various services and supports to individuals with developmental disabilities, and for ensuring the appropriateness and quality of those services and supports. Under existing law, the

department contracts with regional centers to provide services and supports to persons 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 regional centers to give certain information and materials to a consumer or his or her parents, legal guardian, conservator, or authorized representative, or both, at the time of development, scheduled review, or modification of a consumer's IPP or IFSP and would require that information and those materials to be made available in threshold languages, as defined.

Existing law also requires a regional center to only purchase applied behavioral analysis (ABA) services or intensive behavioral intervention services when the parent or parents of minor consumers receiving services participate in the intervention plan for the consumers.

This bill would require the regional center, when determining the extent of parent participation to consider any relevant hardships suffered by a parent or parents that may constitute a barrier to the consumer accessing those services. The bill would require the hardships to be documented in the IPP or IFSP and reviewed ~~annually~~ *every six months* to determine if there has been a change in circumstances.

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

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

1 SECTION 1. Section 4646.45 is added to the Welfare and
2 Institutions Code, immediately following Section 4646.4, to read:
3 4646.45. At the time of development, scheduled review, or
4 modification of a consumer's individual program plan or
5 individualized family service plan, the regional center shall make
6 available, in a nontechnical, understandable form and in threshold
7 languages, as defined in paragraph (3) of subdivision (a) of Section
8 1810.410 of Title 9 of the California Code of Regulations, as
9 appropriate, to the consumer or his or her parents, legal guardian,
10 conservator, or authorized representative, or both, a document
11 describing all of the following and the process for obtaining each
12 exception or exemption:
13 (a) The exception described in subdivision (d) of Section
14 4648.35.

1 (b) The exemption described in subdivision (c) of Section
2 4648.5.

3 (c) The exemption described in subdivision (d) of Section
4 4648.55.

5 (d) The exemption described in subparagraph (A) of paragraph
6 (3) of subdivision (a) of Section 4686.5.

7 SEC. 2. Section 4646.5 of the Welfare and Institutions Code
8 is amended to read:

9 4646.5. (a) The planning process for the individual program
10 plan described in Section 4646 shall include all of the following:

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

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

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

39 (4) When developing an individual program plan for a transition
40 age youth or working age adult, the planning team shall consider

1 the Employment First Policy described in Chapter 14 (commencing
2 with Section 4868).

3 (5) A schedule of the type and amount of services and supports
4 to be purchased by the regional center or obtained from generic
5 agencies or other resources in order to achieve the individual
6 program plan goals and objectives, and identification of the
7 provider or providers of service responsible for attaining each
8 objective, including, but not limited to, vendors, contracted
9 providers, generic service agencies, and natural supports. The
10 individual program plan shall specify the approximate scheduled
11 start date for services and supports and shall contain timelines for
12 actions necessary to begin services and supports, including generic
13 services. In addition to the requirements of subdivision (h) of
14 Section 4646, each regional center shall offer, and upon request
15 provide, a written copy of the individual program plan to the
16 consumer, and, when appropriate, his or her parents, legal guardian
17 or conservator, or authorized representative within 45 days of their
18 request in a threshold language, as defined by paragraph (3) of
19 subdivision (a) of Section 1810.410 of Title 9 of the California
20 Code of Regulations.

21 (6) At the beginning of each individual program plan meeting,
22 the regional center shall provide a consumer and, when appropriate,
23 his or her parents, legal guardian, conservator, or authorized
24 representative information about the appeal and complaint process
25 in threshold languages, as defined in paragraph (3) of subdivision
26 (a) of Section 1810.410 of Title 9 of the California Code of
27 Regulations, as appropriate.

28 (7) When agreed to by the consumer, the parents, legally
29 appointed guardian, or authorized representative of a minor
30 consumer, or the legally appointed conservator of an adult
31 consumer or the authorized representative, including those
32 appointed pursuant to subdivision (a) of Section 4541, subdivision
33 (b) of Section 4701.6, and subdivision (e) of Section 4705, a review
34 of the general health status of the adult or child, including medical,
35 dental, and mental health needs, shall be conducted. This review
36 shall include a discussion of current medications, any observed
37 side effects, and the date of the last review of the medication.
38 Service providers shall cooperate with the planning team to provide
39 any information necessary to complete the health status review. If
40 any concerns are noted during the review, referrals shall be made

1 to regional center clinicians or to the consumer's physician, as
2 appropriate. Documentation of health status and referrals shall be
3 made in the consumer's record by the service coordinator.

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

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

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

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

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

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

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

36 (c) (1) The department, with the participation of representatives
37 of a statewide consumer organization, the Association of Regional
38 Center Agencies, an organized labor organization representing
39 service coordination staff, and the state council shall prepare
40 training material and a standard format and instructions for the

1 preparation of individual program plans, which embody an
2 approach centered on the person and family.

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

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

9 SEC. 3. Section 4648 of the Welfare and Institutions Code is
10 amended to read:

11 4648. In order to achieve the stated objectives of a consumer's
12 individual program plan, the regional center shall conduct activities,
13 including, but not limited to, all of the following:

14 (a) Securing needed services and supports.

15 (1) It is the intent of the Legislature that services and supports
16 assist individuals with developmental disabilities in achieving the
17 greatest self-sufficiency possible and in exercising personal
18 choices. The regional center shall secure services and supports
19 that meet the needs of the consumer, as determined in the
20 consumer's individual program plan, and within the context of the
21 individual program plan, the planning team shall give highest
22 preference to those services and supports which would allow
23 minors with developmental disabilities to live with their families,
24 adult persons with developmental disabilities to live as
25 independently as possible in the community, and that allow all
26 consumers to interact with persons without disabilities in positive,
27 meaningful ways.

28 (2) In implementing individual program plans, regional centers,
29 through the planning team, shall first consider services and supports
30 in natural community, home, work, and recreational settings.
31 Services and supports shall be flexible and individually tailored
32 to the consumer and, where appropriate, his or her family.

33 (3) A regional center may, pursuant to vendorization or a
34 contract, purchase services or supports for a consumer from any
35 individual or agency that the regional center and consumer or,
36 when appropriate, his or her parents, legal guardian, or conservator,
37 or authorized representatives, determines will best accomplish all
38 or any part of that consumer's program plan.

39 (A) Vendorization or contracting is the process for identification,
40 selection, and utilization of service vendors or contractors, based

1 on the qualifications and other requirements necessary in order to
2 provide the service.

3 (B) A regional center may reimburse an individual or agency
4 for services or supports provided to a regional center consumer if
5 the individual or agency has a rate of payment for vendored or
6 contracted services established by the department, pursuant to this
7 division, and is providing services pursuant to an emergency
8 vendorization or has completed the vendorization procedures or
9 has entered into a contract with the regional center and continues
10 to comply with the vendorization or contracting requirements. The
11 director shall adopt regulations governing the vendorization process
12 to be utilized by the department, regional centers, vendors, and
13 the individual or agency requesting vendorization.

14 (C) Regulations shall include, but not be limited to: the vendor
15 application process, and the basis for accepting or denying an
16 application; the qualification and requirements for each category
17 of services that may be provided to a regional center consumer
18 through a vendor; requirements for emergency vendorization;
19 procedures for termination of vendorization; and the procedure
20 for an individual or an agency to appeal any vendorization decision
21 made by the department or regional center.

22 (D) A regional center may vendorize a licensed facility for
23 exclusive services to persons with developmental disabilities at a
24 capacity equal to or less than the facility's licensed capacity. A
25 facility already licensed on January 1, 1999, shall continue to be
26 vendorized at their full licensed capacity until the facility agrees
27 to vendorization at a reduced capacity.

28 (E) Effective July 1, 2009, notwithstanding any other law or
29 regulation, a regional center shall not newly vendor a State
30 Department of Social Services licensed 24-hour residential care
31 facility with a licensed capacity of 16 or more beds, unless the
32 facility qualifies for receipt of federal funds under the Medicaid
33 Program.

34 (4) Notwithstanding subparagraph (B) of paragraph (3), a
35 regional center may contract or issue a voucher for services and
36 supports provided to a consumer or family at a cost not to exceed
37 the maximum rate of payment for that service or support
38 established by the department. If a rate has not been established
39 by the department, the regional center may, for an interim period,
40 contract for a specified service or support with, and establish a

1 rate of payment for, any provider of the service or support
2 necessary to implement a consumer's individual program plan.
3 Contracts may be negotiated for a period of up to three years, with
4 annual review and subject to the availability of funds.

5 (5) In order to ensure the maximum flexibility and availability
6 of appropriate services and supports for persons with
7 developmental disabilities, the department shall establish and
8 maintain an equitable system of payment to providers of services
9 and supports identified as necessary to the implementation of a
10 consumer's individual program plan. The system of payment shall
11 include a provision for a rate to ensure that the provider can meet
12 the special needs of consumers and provide quality services and
13 supports in the least restrictive setting as required by law.

14 (6) The regional center and the consumer, or when appropriate,
15 his or her parents, legal guardian, conservator, or authorized
16 representative, including those appointed pursuant to subdivision
17 (a) of Section 4541, subdivision (b) of Section 4701.6, or
18 subdivision (e) of Section 4705, shall, pursuant to the individual
19 program plan, consider all of the following when selecting a
20 provider of consumer services and supports:

21 (A) A provider's ability to deliver quality services or supports
22 that can accomplish all or part of the consumer's individual
23 program plan.

24 (B) A provider's success in achieving the objectives set forth
25 in the individual program plan.

26 (C) Where appropriate, the existence of licensing, accreditation,
27 or professional certification.

28 (D) The cost of providing services or supports of comparable
29 quality by different providers, if available, shall be reviewed, and
30 the least costly available provider of comparable service, including
31 the cost of transportation, who is able to accomplish all or part of
32 the consumer's individual program plan, consistent with the
33 particular needs of the consumer and family as identified in the
34 individual program plan, shall be selected. In determining the least
35 costly provider, the availability of federal financial participation
36 shall be considered. The consumer shall not be required to use the
37 least costly provider if it will result in the consumer moving from
38 an existing provider of services or supports to more restrictive or
39 less integrated services or supports.

1 (E) The consumer's choice of providers, or, when appropriate,
2 the consumer's parent's, legal guardian's, authorized
3 representative's, or conservator's choice of providers.

4 (7) No service or support provided by any agency or individual
5 shall be continued unless the consumer or, when appropriate, his
6 or her parents, legal guardian, or conservator, or authorized
7 representative, including those appointed pursuant to subdivision
8 (a) of Section 4541, subdivision (b) of Section 4701.6, or
9 subdivision (e) of Section 4705, is satisfied and the regional center
10 and the consumer or, when appropriate, the person's parents or
11 legal guardian or conservator agree that planned services and
12 supports have been provided, and reasonable progress toward
13 objectives have been made.

14 (8) Regional center funds shall not be used to supplant the
15 budget of any agency that has a legal responsibility to serve all
16 members of the general public and is receiving public funds for
17 providing those services.

18 (9) (A) A regional center may, directly or through an agency
19 acting on behalf of the center, provide placement in, purchase of,
20 or follow-along services to persons with developmental disabilities
21 in, appropriate community living arrangements, including, but not
22 limited to, support service for consumers in homes they own or
23 lease, foster family placements, health care facilities, and licensed
24 community care facilities. In considering appropriate placement
25 alternatives for children with developmental disabilities, approval
26 by the child's parent or guardian shall be obtained before placement
27 is made.

28 (B) Effective July 1, 2012, notwithstanding any other law or
29 regulation, a regional center shall not purchase residential services
30 from a State Department of Social Services licensed 24-hour
31 residential care facility with a licensed capacity of 16 or more
32 beds. This prohibition on regional center purchase of residential
33 services shall not apply to any of the following:

34 (i) A residential facility with a licensed capacity of 16 or more
35 beds that has been approved to participate in the department's
36 Home and Community Based Services Waiver or another existing
37 waiver program or certified to participate in the Medi-Cal program.

38 (ii) A residential facility service provider that has a written
39 agreement and specific plan prior to July 1, 2012, with the
40 vendoring regional center to downsize the existing facility by

1 transitioning its residential services to living arrangements of 15
2 beds or less or restructure the large facility to meet federal
3 Medicaid eligibility requirements on or before June 30, 2013.

4 (iii) A residential facility licensed as a mental health
5 rehabilitation center by the State Department of ~~Mental Health~~
6 *Health Care Services* or successor agency under any of the
7 following circumstances:

8 (I) The facility is eligible for Medicaid reimbursement.

9 (II) The facility has a department-approved plan in place by
10 June 30, 2013, to transition to a program structure eligible for
11 federal Medicaid funding, and this transition will be completed by
12 June 30, 2014. The department may grant an extension for the date
13 by which the transition will be completed if the facility
14 demonstrates that it has made significant progress toward transition,
15 and states with specificity the timeframe by which the transition
16 will be completed and the specified steps that will be taken to
17 accomplish the transition. A regional center may pay for the costs
18 of care and treatment of a consumer residing in the facility on June
19 30, 2012, until June 30, 2013, inclusive, and, if the facility has a
20 department-approved plan in place by June 30, 2013, may continue
21 to pay the costs under this subparagraph until June 30, 2014, or
22 until the end of any period during which the department has granted
23 an extension.

24 (III) There is an emergency circumstance in which the regional
25 center determines that it cannot locate alternate federally eligible
26 services to meet the consumer's needs. Under such an emergency
27 circumstance, an assessment shall be completed by the regional
28 center as soon as possible and within 30 days of admission. An
29 individual program plan meeting shall be convened immediately
30 following the assessment to determine the services and supports
31 needed for stabilization and to develop a plan to transition the
32 consumer from the facility into the community. If transition is not
33 expected within 90 days of admission, an individual program plan
34 meeting shall be held to discuss the status of transition and to
35 determine if the consumer is still in need of placement in the
36 facility. Commencing October 1, 2012, this determination shall
37 be made after also considering resource options identified by the
38 statewide specialized resource service. If it is determined that
39 emergency services continue to be necessary, the regional center
40 shall submit an updated transition plan that can cover a period of

1 up to 90 days. In no event shall placements under these emergency
2 circumstances exceed 180 days.

3 (C) (i) Effective July 1, 2012, notwithstanding any other law
4 or regulation, a regional center shall not purchase new residential
5 services from, or place a consumer in, institutions for mental
6 disease, as described in Part 5 (commencing with Section 5900)
7 of Division 5, for which federal Medicaid funding is not available.
8 Effective July 1, 2013, this prohibition applies regardless of the
9 availability of federal funding.

10 (ii) The prohibition described in clause (i) shall not apply to
11 emergencies, as determined by the regional center, when a regional
12 center cannot locate alternate services to meet the consumer's
13 needs. As soon as possible within 30 days of admission due to an
14 emergency, an assessment shall be completed by the regional
15 center. An individual program plan meeting shall be convened
16 immediately following the assessment, to determine the services
17 and supports needed for stabilization and to develop a plan to
18 transition the consumer from the facility to the community. If
19 transition is not expected within 90 days of admission, an
20 emergency program plan meeting shall be held to discuss the status
21 of the transition and to determine if the consumer is still in need
22 of placement in the facility. If emergency services continue to be
23 necessary, the regional center shall submit an updated transition
24 plan to the department for an extension of up to 90 days. Placement
25 shall not exceed 180 days.

26 (iii) To the extent feasible, prior to any admission, the regional
27 center shall consider resource options identified by the statewide
28 specialized resource service established pursuant to subdivision
29 (b) of Section 4418.25.

30 (iv) The clients' rights advocate shall be notified of each
31 admission and individual program plan meeting pursuant to this
32 subparagraph and may participate in all individual program plan
33 meetings unless the consumer objects on his or her own behalf.
34 For purposes of this clause, notification to the clients' rights
35 advocate shall include a copy of the most recent comprehensive
36 assessment or updated assessment and the time, date, and location
37 of the meeting, and shall be provided as soon as practicable, but
38 not less than seven calendar days prior to the meeting.

39 (v) If a consumer is placed in an institution for mental disease
40 by another entity, the institution for mental disease shall inform

1 the regional center of the placement within five days of the date
2 the consumer is admitted. If an individual's records indicate that
3 he or she is a regional center consumer, the institution for mental
4 disease shall make every effort to contact the local regional center
5 or department to determine which regional center to provide notice.
6 As soon as possible within 30 days of admission to an institution
7 for mental disease due to an emergency pursuant to clause (ii), or
8 within 30 days of notification of admission to an institution for
9 mental disease by an entity other than a regional center, an
10 assessment shall be completed by the regional center.

11 (vi) Regional centers shall complete a comprehensive assessment
12 of any consumer residing in an institution for mental disease as of
13 July 1, 2012, for which federal Medicaid funding is not available,
14 and for any consumer residing in an institution for mental disease
15 as of July 1, 2013, without regard to federal funding. The
16 comprehensive assessment shall be completed prior to the
17 consumer's next scheduled individual program plan meeting and
18 shall include identification of the services and supports needed
19 and the timeline for identifying or developing those services needed
20 to transition the consumer back to the community. Effective
21 October 1, 2012, the regional center shall also consider resource
22 options identified by the statewide specialized resource service.
23 For each individual program plan meeting convened pursuant to
24 this subparagraph, the clients' rights advocate for the regional
25 center shall be notified of the meeting and may participate in the
26 meeting unless the consumer objects on his or her own behalf. For
27 purposes of this clause, notification to the clients' rights advocate
28 shall include the time, date, and location of the meeting, and shall
29 be provided as soon as practicable, but not less than seven calendar
30 days prior to the meeting.

31 (D) A person with developmental disabilities placed by the
32 regional center in a community living arrangement shall have the
33 rights specified in this division. These rights shall be brought to
34 the person's attention by any means necessary to reasonably
35 communicate these rights to each resident, provided that, at a
36 minimum, the Director of Developmental Services prepare,
37 provide, and require to be clearly posted in all residential facilities
38 and day programs a poster using simplified language and pictures
39 that is designed to be more understandable by persons with
40 intellectual disabilities and that the rights information shall also

1 be available through the regional center to each residential facility
2 and day program in alternative formats, including, but not limited
3 to, other languages, braille, and audiotapes, when necessary to
4 meet the communication needs of consumers.

5 (E) Consumers are eligible to receive supplemental services
6 including, but not limited to, additional staffing, pursuant to the
7 process described in subdivision (d) of Section 4646. Necessary
8 additional staffing that is not specifically included in the rates paid
9 to the service provider may be purchased by the regional center if
10 the additional staff are in excess of the amount required by
11 regulation and the individual's planning team determines the
12 additional services are consistent with the provisions of the
13 individual program plan. Additional staff should be periodically
14 reviewed by the planning team for consistency with the individual
15 program plan objectives in order to determine if continued use of
16 the additional staff is necessary and appropriate and if the service
17 is producing outcomes consistent with the individual program plan.
18 Regional centers shall monitor programs to ensure that the
19 additional staff is being provided and utilized appropriately.

20 (10) Emergency and crisis intervention services including, but
21 not limited to, mental health services and behavior modification
22 services, may be provided, as needed, to maintain persons with
23 developmental disabilities in the living arrangement of their own
24 choice. Crisis services shall first be provided without disrupting a
25 person's living arrangement. If crisis intervention services are
26 unsuccessful, emergency housing shall be available in the person's
27 home community. If dislocation cannot be avoided, every effort
28 shall be made to return the person to his or her living arrangement
29 of choice, with all necessary supports, as soon as possible.

30 (11) Among other service and support options, planning teams
31 shall consider the use of paid roommates or neighbors, personal
32 assistance, technical and financial assistance, and all other service
33 and support options which would result in greater self-sufficiency
34 for the consumer and cost-effectiveness to the state.

35 (12) When facilitation as specified in an individual program
36 plan requires the services of an individual, the facilitator shall be
37 of the consumer's choosing.

38 (13) The community support may be provided to assist
39 individuals with developmental disabilities to fully participate in
40 community and civic life, including, but not limited to, programs,

1 services, work opportunities, business, and activities available to
2 persons without disabilities. This facilitation shall include, but not
3 be limited to, any of the following:

4 (A) Outreach and education to programs and services within
5 the community.

6 (B) Direct support to individuals that would enable them to
7 more fully participate in their community.

8 (C) Developing unpaid natural supports when possible.

9 (14) When feasible and recommended by the individual program
10 planning team, for purposes of facilitating better and cost-effective
11 services for consumers or family members, technology, including
12 telecommunication technology, may be used in conjunction with
13 other services and supports. Technology in lieu of a consumer's
14 in-person appearances at judicial proceedings or administrative
15 due process hearings may be used only if the consumer or, when
16 appropriate, the consumer's parent, legal guardian, conservator,
17 or authorized representative, gives informed consent. Technology
18 may be used in lieu of, or in conjunction with, in-person training
19 for providers, as appropriate.

20 (15) Other services and supports may be provided as set forth
21 in Sections 4685, 4686, 4687, 4688, and 4689, when necessary.

22 (16) Notwithstanding any other law or regulation, effective July
23 1, 2009, regional centers shall not purchase experimental
24 treatments, therapeutic services, or devices that have not been
25 clinically determined or scientifically proven to be effective or
26 safe or for which risks and complications are unknown.
27 Experimental treatments or therapeutic services include
28 experimental medical or nutritional therapy when the use of the
29 product for that purpose is not a general physician practice. For
30 regional center consumers receiving these services as part of their
31 individual program plan (IPP) or individualized family service
32 plan (IFSP) on July 1, 2009, this prohibition shall apply on August
33 1, 2009.

34 (b) (1) Advocacy for, and protection of, the civil, legal, and
35 service rights of persons with developmental disabilities as
36 established in this division.

37 (2) Whenever the advocacy efforts of a regional center to secure
38 or protect the civil, legal, or service rights of any of its consumers
39 prove ineffective, the regional center or the person with
40 developmental disabilities or his or her parents, legal guardian, or

1 other representative may request advocacy assistance from the
2 state council.

3 (c) The regional center may assist consumers and families
4 directly, or through a provider, in identifying and building circles
5 of support within the community.

6 (d) In order to increase the quality of community services and
7 protect consumers, the regional center shall, when appropriate,
8 take either of the following actions:

9 (1) Identify services and supports that are ineffective or of poor
10 quality and provide or secure consultation, training, or technical
11 assistance services for any agency or individual provider to assist
12 that agency or individual provider in upgrading the quality of
13 services or supports.

14 (2) Identify providers of services or supports that may not be
15 in compliance with local, state, and federal statutes and regulations
16 and notify the appropriate licensing or regulatory authority to
17 investigate the possible noncompliance.

18 (e) When necessary to expand the availability of needed services
19 of good quality, a regional center may take actions that include,
20 but are not limited to, the following:

21 (1) Soliciting an individual or agency by requests for proposals
22 or other means, to provide needed services or supports not presently
23 available.

24 (2) Requesting funds from the Program Development Fund,
25 pursuant to Section 4677, or community placement plan funds
26 designated from that fund, to reimburse the startup costs needed
27 to initiate a new program of services and supports.

28 (3) Using creative and innovative service delivery models,
29 including, but not limited to, natural supports.

30 (f) Except in emergency situations, a regional center shall not
31 provide direct treatment and therapeutic services, but shall utilize
32 appropriate public and private community agencies and service
33 providers to obtain those services for its consumers.

34 (g) When there are identified gaps in the system of services and
35 supports or when there are identified consumers for whom no
36 provider will provide services and supports contained in his or her
37 individual program plan, the department may provide the services
38 and supports directly.

39 (h) At least annually, regional centers shall provide the
40 consumer, his or her parents, legal guardian, conservator, or

1 authorized representative a statement of services and supports the
2 regional center purchased for the purpose of ensuring that they are
3 delivered. The statement shall include the type, unit, month, and
4 cost of services and supports purchased. The regional center shall
5 make that statement available in threshold languages, as defined
6 in paragraph (3) of subdivision (a) of Section 1810.410 of Title 9
7 of the California Code of Regulations, as appropriate, to the
8 consumer or his or her parents, legal guardian, conservator, or
9 authorized representative, or both.

10 SEC. 4. Section 4686.2 of the Welfare and Institutions Code
11 is amended to read:

12 4686.2. (a) Effective July 1, 2009, notwithstanding any other
13 law or regulation to the contrary, any vendor who provides applied
14 behavioral analysis (ABA) services, or intensive behavioral
15 intervention services or both, as defined in subdivision (d), shall:

16 (1) Conduct a behavioral assessment of each consumer to whom
17 the vendor provides these services.

18 (2) Design an intervention plan that shall include the service
19 type, number of hours, and parent participation needed to achieve
20 the consumer's goals and objectives, as set forth in the consumer's
21 individual program plan (IPP) or individualized family service
22 plan (IFSP). The intervention plan shall also set forth the frequency
23 at which the consumer's progress shall be evaluated and reported.

24 (3) Provide a copy of the intervention plan to the regional center
25 for review and consideration by the planning team members.

26 (b) Effective July 1, 2009, notwithstanding any other law or
27 regulation to the contrary, regional centers shall:

28 (1) Only purchase ABA services or intensive behavioral
29 intervention services that reflect evidence-based practices, promote
30 positive social behaviors, and ameliorate behaviors that interfere
31 with learning and social interactions.

32 (2) (A) Only purchase ABA or intensive behavioral intervention
33 services when the parent or parents of minor consumers receiving
34 services participate in the intervention plan for the consumers,
35 given the critical nature of parent participation to the success of
36 the intervention plan.

37 (B) In determining the extent of parent participation required
38 for the provision of ABA or intensive behavioral intervention
39 services, the IPP or IFSP planning team shall consider any relevant
40 hardships suffered by a parent or parents that may constitute a

1 barrier to the consumer accessing those services, including, but
2 not limited to, availability of group instruction courses, conflicts
3 with employment, vocational training, or educational demands,
4 financial hardship, or lack of transportation or child or other family
5 member care, and language barriers. Any hardships shall be
6 documented in the IPP or IFSP and reviewed ~~annually~~ *every six*
7 *months* to determine if there has been a change in circumstances.
8 If the regional center determines that the extent of parent
9 participation should be adjusted due to a change in circumstances,
10 the regional center shall provide adequate notice pursuant to
11 subdivision (a) of Section 4710.

12 (3) Not purchase either ABA or intensive behavioral intervention
13 services for purposes of providing respite, day care, or school
14 services.

15 (4) Discontinue purchasing ABA or intensive behavioral
16 intervention services for a consumer when the consumer's
17 treatment goals and objectives, as described under subdivision (a),
18 are achieved. ABA or intensive behavioral intervention services
19 shall not be discontinued until the goals and objectives are reviewed
20 and updated as required in paragraph (5) and shall be discontinued
21 only if those updated treatment goals and objectives do not require
22 ABA or intensive behavioral intervention services.

23 (5) For each consumer, evaluate the vendor's intervention plan
24 and number of service hours for ABA or intensive behavioral
25 intervention no less than every six months, consistent with
26 evidence-based practices. If necessary, the intervention plan's
27 treatment goals and objectives shall be updated and revised.

28 (6) Not reimburse a parent for participating in a behavioral
29 services treatment program.

30 (c) For consumers receiving ABA or behavioral intervention
31 services on July 1, 2009, as part of their IPP or IFSP, subdivision
32 (b) shall apply on August 1, 2009.

33 (d) For purposes of this section the following definitions shall
34 apply:

35 (1) "Applied behavioral analysis" means the design,
36 implementation, and evaluation of systematic instructional and
37 environmental modifications to promote positive social behaviors
38 and reduce or ameliorate behaviors which interfere with learning
39 and social interaction.

(2) “Intensive behavioral intervention” means any form of applied behavioral analysis that is comprehensive, designed to address all domains of functioning, and provided in multiple settings for no more than 40 hours per week, across all settings, depending on the individual’s needs and progress. Interventions can be delivered in a one-to-one ratio or small group format, as appropriate.

(3) “Evidence-based practice” means a decisionmaking process that integrates the best available scientifically rigorous research, clinical expertise, and individual’s characteristics. Evidence-based practice is an approach to treatment rather than a specific treatment. Evidence-based practice promotes the collection, interpretation, integration, and continuous evaluation of valid, important, and applicable individual- or family-reported, clinically-observed, and research-supported evidence. The best available evidence, matched to consumer circumstances and preferences, is applied to ensure the quality of clinical judgments and facilitates the most cost-effective care.

(4) “Parent participation” shall include, but shall not be limited to, the following meanings:

(A) Completion of group instruction on the basics of behavior intervention.

(B) Implementation of intervention strategies, according to the intervention plan.

(C) If needed, collection of data on behavioral strategies and submission of that data to the provider for incorporation into progress reports.

(D) Participation in any needed clinical meetings.

(E) Purchase of suggested behavior modification materials or community involvement if a reward system is used.