

Senate Bill No. 1038

Passed the Senate August 31, 1998

Secretary of the Senate

Passed the Assembly August 31, 1998

Chief Clerk of the Assembly

This bill was received by the Governor this ____ day
of _____, 1998, at ____ o'clock __M.

Private Secretary of the Governor



CHAPTER ____

An act to amend Sections 4512, 4596.5, 4640, 4646, 4646.5, 4648, 4648.1, 4681.1, 4685, 4689, 4712, 4712.5, 4731, 4740, 4741, 4742, 4743, 4744, 4745, and 4747 of, to add Sections 4685.1, 4689.7, 4697, 4742.1, and 4847 to, to add and repeal Section 4685.5 of, to repeal Section 4541 of, and to repeal and add Section 4696.1 of, the Welfare and Institutions Code, relating to human services, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

SB 1038, M. Thompson. Developmental disabilities.

Existing law, the Lanterman Developmental Disabilities Services Act (hereafter the act) requires the State Department of Developmental Services to contract with regional centers for the provision of various services and supports to persons with developmental disabilities.

This bill would appropriate the sum of \$5,057,000 from the General Fund to the department for the purpose of increasing the salary, wage, and benefits for direct care workers providing supported living services.

Existing law requires that the services and supports to be provided to each regional center client be determined pursuant to the development of an individual program plan.

Existing law requires that the plan be developed jointly with a planning team, as defined.

This bill would add to those members who may, where appropriate, be on a planning team, the authorized representative of a person with a developmental disability.

Existing law requires that the process for the development of an individual program plan include specified elements.

This bill would also require this planning process to include, when agreed to by the consumer, the parents, the legal guardian of a minor consumer, the conservator of an adult consumer, or the consumer's authorized



representative, a review of the general health status of the adult or child.

Existing law permits a regional center, pursuant to vendorization or a contract, to purchase services and supports for a consumer from any individual or agency which the regional center and consumer or, where appropriate, his or her parents, legal guardian or conservator or authorized representative, will best accomplish all or any part of the consumer's individual program plan.

This bill would permit a regional center to vendorize a licensed facility for exclusive services to persons with developmental disabilities at a capacity equal to or less than the facility's licensed capacity.

Existing law permits a regional center to place a person with a developmental disability in a community living arrangement under certain circumstances.

Existing law provides that a person with a developmental disability who is placed in a community living arrangement has certain rights that are required to be brought to the person's attention by any means the director may designate by regulation.

This bill would require that these means be any means necessary to communicate these rights, and would require that, at a minimum, the Director of Developmental Services prepare, provide, and require to be clearly posted in all residential facilities and day programs a poster using simplified language and pictures that is designed to be more understandable by persons with cognitive disabilities and that the rights information shall also be available through the regional center to each residential facility and day program in alternative formats.

Existing law permits the department and regional centers to monitor services purchased for consumers with or without notice, except that monitoring without prior notice is limited to situations where the department or regional center determines that the purpose of the visit would be thwarted if advance notice were given.



This bill would delete this limitation, and would, instead, require that not less than one monitoring visit to a licensed community care facility or family home agency home each year shall be unannounced.

Existing law requires the department to establish rates for out-of-home care of eligible persons with developmental disabilities residing in community care facilities, in accordance with an Alternative Residential Model, with these rates being required to include an adequate amount to care for basic living needs, as defined.

This bill would make various changes to these provisions, including a requirement that the department adopt regulations for the establishment of these rates. It would also impose requirements for the periodic updating of these reimbursement rates.

The bill would also require a regional center, whenever a minor child with a developmental disability requires an out-of-home living arrangement, as determined in the individual program plan, to make every effort to secure a living arrangement in reasonably close proximity to the family home. If a living arrangement in close proximity to the child's home cannot be secured, the regional center would, under specified circumstances, be required to undertake certain efforts aimed at either returning the child to his or her home or securing a living arrangement in close proximity to his or her own home.

The bill would permit a regional center to provide or secure an array of services and supports for adults with developmental disabilities living in their family's home that meet specific goals.

The bill would require the department to conduct a 3-year pilot project to provide funding to local self-determination programs that will enhance the ability of a consumer and his or her family to control the decisions and resources required to meet all or some of the objectives in his or her program plan.

This bill would reappropriate \$750,000 to the department from specified funds appropriated pursuant to the Budget Act of 1998 for these programs.



The bill would require regional centers and county mental health agencies to undertake various joint efforts with respect to persons dually diagnosed as mentally ill and developmentally disabled, and would require state agency participation in these cases when certain conditions exist. It would also require the department, by May 15 of each year, to provide specified information to the Legislature relating to persons with this dual diagnosis. Since the bill would impose specified duties upon county mental health agencies, it would impose a state-mandated local program.

The bill would state the intent of the Legislature with respect to the facilitation of joint meetings between system stakeholders.

Existing law permits regional center clients and persons acting on their behalf to have a fair hearing before an administrative law judge in order to appeal regional center decisions.

Existing law requires these administrative law judges to have training in the laws and regulations governing services to developmentally disabled individuals.

This bill would require these judges to have training related to the needs of persons with developmental disabilities, in accordance with specified requirements.

The bill would require the department to collect and maintain or cause to be collected and maintained copies of all redacted administrative hearing decisions issued under the act, and make copies available to the public upon request, at a cost per page not greater than that charged by the department for documents sought under the California Public Records Act.

Existing law provides that a fair hearing on a regional center decision shall be held at a time and place reasonably convenient to the claimant and the authorized representative.

This bill would require that the claimant or the authorized representative of the claimant and the regional center agree on the location of the fair hearing.

Existing law requires that a regional center or its designated representative monitor the care and services



provided the consumer to ensure that care and services are provided in accordance with the individual program plan.

This bill would provide that a statement made by a regional center representative when discharging his or her obligation to monitor the provision of services and supports pursuant to the act shall be a privileged communication, unless a party to a judicial action demonstrates that the regional center representative made the disputed statement with knowledge of its falsity or with reckless disregard for the truth.

Existing law permits a regional center or its designee, if an adult person with a developmental disability or the parent, guardian, or conservator on behalf of a child, requests relocation, to provide assistance in locating and moving to another residence.

This bill would, instead, require the regional center, if requested by a consumer or, when appropriate, by the parent, legal guardian or conservator, or authorized representative, to schedule an individual program plan meeting.

This bill would require the State Department of Developmental Services to coordinate, or require each regional center to coordinate, a meeting within each regional center catchment area at least annually.

This bill would incorporate changes made to Section 4712 of the Welfare and Institutions Code by AB 2494, which would become operative only if both this bill and AB 2494 are chaptered and this bill is chaptered last.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs



mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Appropriation: yes.

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

SECTION 1. Section 4512 of the Welfare and Institutions Code is amended to read:

4512. As used in this part:

(a) “Developmental disability” means a disability which originates before an individual attains age 18, continues, or can be expected to continue, indefinitely, and constitutes a substantial disability for that individual. As defined by the Director of Developmental Services, in consultation with the Superintendent of Public Instruction, this term shall include mental retardation, cerebral palsy, epilepsy, and autism. This term shall also include disabling conditions found to be closely related to mental retardation or to require treatment similar to that required for individuals with mental retardation, but shall not include other handicapping conditions that are solely physical in nature.

(b) “Services and supports for persons with developmental disabilities” means specialized services and supports or special adaptations of generic services and supports directed toward the alleviation of a developmental disability or toward the social, personal, physical, or economic habilitation or rehabilitation of an individual with a developmental disability, or toward the achievement and maintenance of independent, productive, normal lives. The determination of which services and supports are necessary for each consumer shall be made through the individual program plan process. The determination shall be made on the basis of the needs and preferences of the consumer or, when appropriate, the consumer’s family, and shall include consideration of a range of service options proposed by individual program plan participants, the effectiveness of each option in meeting the goals stated in the individual program plan, and the cost-effectiveness of each option.



Services and supports listed in the individual program plan may include, but are not limited to, diagnosis, evaluation, treatment, personal care, day care, domiciliary care, special living arrangements, physical, occupational, and speech therapy, training, education, supported and sheltered employment, mental health services, recreation, counseling of the individual with a developmental disability and of his or her family, protective and other social and sociolegal services, information and referral services, follow-along services, adaptive equipment and supplies; advocacy assistance, including self-advocacy training, facilitation and peer advocates; assessment; assistance in locating a home; child care; behavior training and behavior modification programs; camping; community integration services; community support; daily living skills training; emergency and crisis intervention; facilitating circles of support; habilitation; homemaker services; infant stimulation programs; paid roommates; paid neighbors; respite; short-term out-of-home care; social skills training; specialized medical and dental care; supported living arrangements; technical and financial assistance; travel training; training for parents of children with developmental disabilities; training for parents with developmental disabilities; vouchers; and transportation services necessary to ensure delivery of services to persons with developmental disabilities. Nothing in this subdivision is intended to expand or authorize a new or different service or support for any consumer unless that service or support is contained in his or her individual program plan.

(c) Notwithstanding subdivision (a) and (b), for any organization or agency receiving federal financial participation under the federal Developmental Disabilities Assistance and Bill of Rights Act, as amended “developmental disability” and “services for persons with developmental disabilities” means such terms as defined in the federal act to the extent required by federal law.



(d) “Consumer” means a person who has a disability that meets the definition of developmental disability set forth in subdivision (a).

(e) “Natural supports” means personal associations and relationships typically developed in the community that enhance the quality and security of life for people, including, but not limited to, family relationships; friendships reflecting the diversity of the neighborhood and the community; associations with fellow students or employees in regular classrooms and workplaces; and associations developed through participation in clubs, organizations, and other civic activities.

(f) “Circle of support” means a committed group of community members, which may include family members, meeting regularly with an individual with developmental disabilities in order to share experiences, promote autonomy and community involvement, and assist the individual in establishing and maintaining natural supports. Such a circle of support generally includes a plurality of members who neither provide nor receive services or supports for persons with developmental disabilities and who do not receive payment for participation in the circle of support.

(g) “Facilitation” means the use of modified or adapted materials, special instructions, equipment, or personal assistance by an individual, such as assistance with communications, which will enable a consumer to understand and participate to the maximum extent possible in the decisions and choices which effect his or her life.

(h) “Family support services” means services and supports that are provided to a child with developmental disabilities or his or her family and that contribute to the ability of the family to reside together.

(i) “Voucher” means any authorized alternative form of service delivery in which the consumer or family member is provided with a payment, coupon, chit, or other form of authorization which enables the consumer or family member to choose his or her own service provider.



(j) “Planning team” means the individual with developmental disabilities, the parents or legally appointed guardian of a minor consumer, or the legally appointed conservator of an adult consumer, the authorized representative, including those appointed pursuant to Section 4590 and subdivision (e) of Section 4705, one or more regional center representatives, including the designated regional center service coordinator pursuant to subdivision (b) of Section 4640.7, and any individual, including a service provider, invited 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 Section 4590 and subdivision (e) of Section 4705.

(k) “Stakeholder organizations” means statewide organizations representing the interests of consumers, family members, service providers, and statewide advocacy organizations.

SEC. 2. Section 4541 of the Welfare and Institutions Code is repealed.

SEC. 3. Section 4596.5 of the Welfare and Institutions Code, as amended by Section 33 of Chapter 310 of the Statutes of 1998, is amended to read:

4596.5. (a) In order to remain informed about the quality of services in the area and protect the legal, civil, and service rights of persons with developmental disabilities pursuant to Section 4590, the Legislature finds that it is necessary to conduct life quality assessments with consumers served by the regional centers.

(b) It is the intent of the Legislature that life quality assessments described in this section be conducted by area boards, unless an independent evaluation of the life quality assessment process, that shall be completed by April 30, 1998, identifies compelling reasons why this function should not be conducted by area boards.

(c) By July 1, 1998, the department shall enter into an interagency agreement with the Organization of Area Boards, on behalf of the area boards, to conduct the life quality assessments described in this section.



(d) Consistent with the responsibilities described in this chapter, the area board, with the consent of the consumer and, when appropriate, a family member, shall conduct life quality assessments with consumers living in out-of-home placements, supported living arrangements, or independent living arrangements no less than once every three years or more frequently upon the request of a consumer, or, when appropriate, a family member. A regional center or the department shall annually provide the local area board with a list, including, but not limited to, the name, address, and telephone number of each consumer, and, when appropriate, a family member, the consumer's date of birth, and the consumer's case manager, for all consumers living in out-of-home placements, supported living arrangements, or independent living arrangements, in order to facilitate area board contact with consumers and, when appropriate, family members, for the purpose of conducting life quality assessments.

(e) The life quality assessments shall be conducted by utilizing the "Looking at Life Quality Handbook" or subsequent revisions developed by the department.

(f) The assessments shall be conducted by consumers, families, providers, and others, including volunteer surveyors. Each area board shall recruit, train, supervise, and coordinate surveyors. Upon request, and if feasible, the area board shall respect the request of a consumer and, when appropriate, family member, for a specific surveyor to conduct the life quality assessment. An area board may provide stipends to surveyors.

(g) A life quality assessment shall be conducted within 90 days prior to a consumer's triennial individual program plan meeting, so that the consumer and regional center may use this information as part of the planning process.

(h) Prior to conducting a life quality assessment, the area board shall meet with the regional center to coordinate the exchange of appropriate information necessary to conduct the assessment and ensure timely followup to identified violations of any legal, civil, or service rights.



(i) Following the conduct of each life quality assessment, the area board shall develop a report of its findings and provide a copy of the report to the consumer, when appropriate, family members, and the regional center providing case management services to the consumer. In the event that a report identifies alleged violations of any legal, civil, or service right, the area board shall notify the regional center and the department of the alleged violation. The department shall monitor the regional center to ensure that violations are addressed and resolved in a timely manner.

(j) Regional centers shall review information from the life quality assessments on a systemic basis in order to identify training and resource development needs.

(k) Effective September 1, 1999, and annually thereafter, the Organization of Area Boards shall prepare and submit a report to the Governor, the Legislature, and the department describing the activities and accomplishments related to the implementation of this section. The report shall include, but not be limited to, the number of life quality assessments conducted, the number of surveyors, including those provided stipends, a description of the surveyor recruitment process and training program, including any barriers to recruitment, the number, nature, and outcome of any identified violations of legal, civil, or service rights reported to regional centers, and recommendations for improvement in the life quality assessment process.

(l) Implementation of this section shall be subject to an annual appropriation of funds in the state Budget Act for this purpose.

(m) If the department finds, based on the results of the independent study described in subdivision (b), that there is a compelling reason why the area boards should not conduct the life quality assessments, it may select an alternative governmental agency or contract with a nonprofit agency to conduct the life quality assessments as described in this section. The department shall notify the Governor and the Legislature of such a finding, including the reasons for the finding and a description of



the alternative method by which the department will ensure the life quality assessment process is completed.

SEC. 4. Section 4640 of the Welfare and Institutions Code is amended to read:

4640. (a) Contracts between the department and regional centers shall specify the service area and the categories of persons that regional centers shall be expected to serve and the services and supports to be provided.

(b) In order to ensure uniformity in the application of the definition of developmental disability contained in this division, the Director of Developmental Services shall, by March 1, 1977, issue regulations that delineate, by diagnostic category and degree of disability, those persons who are eligible for services and supports by regional centers. In issuing the regulations, the director shall invite and consider the views of regional center contracting agencies, the state council, and persons with a demonstrated and direct interest in developmental disabilities.

SEC. 5. Section 4646 of the Welfare and Institutions Code is amended to read:

4646. (a) It is the intent of the Legislature to ensure that the individual program plan and provision of services and supports by the regional center system is centered on the individual and the family of the individual with developmental disabilities and takes into account the needs and preferences of the individual and the family, where appropriate, as well as promoting community integration, independent, productive, and normal lives, and stable and healthy environments. It is the further intent of the Legislature to ensure that the provision of services to consumers and their families be effective in meeting the goals stated in the individual program plan, reflect the preferences and choices of the consumer, and reflect the cost-effective use of public resources.

(b) The individual program plan is developed through a process of individualized needs determination. The individual with developmental disabilities and, where appropriate, his or her parents, legal guardian or



conservator, or authorized representative, shall have the opportunity to actively participate in the development of the plan.

(c) An individual program plan shall be developed for any person who, following intake and assessment, is found to be eligible for regional center services. These plans shall be completed within 60 days of the completion of the assessment. At the time of intake, the regional center shall inform the consumer and, where appropriate, his or her parents, legal guardian or conservator, or authorized representative, of the services available through the local area board and the protection and advocacy agency designated by the Governor pursuant to federal law, and shall provide the address and telephone numbers of those agencies.

(d) Individual program plans shall be prepared jointly by the planning team. Decisions concerning the consumer's goals, objectives, and services and supports that will be included in the consumer's individual program plan and purchased by the regional center or obtained from generic agencies shall be made by agreement between the regional center representative and the consumer or, where appropriate, the parents, legal guardian, conservator, or authorized representative at the program plan meeting.

(e) Regional centers shall comply with the request of a consumer, or where appropriate, the request of his or her parents, legal guardian, or conservator, that a designated representative receive written notice of all meetings to develop or revise his or her individual program plan and of all notices sent to the consumer pursuant to Section 4710. The designated representative may be a parent or family member.

(f) If a final agreement regarding the services and supports to be provided to the consumer cannot be reached at a program plan meeting, then a subsequent program plan meeting shall be convened within 15 days, or later at the request of the consumer or, when appropriate, the parents, legal guardian, conservator, or authorized representative or when agreed to by the



planning team. Additional program plan meetings may be held with the agreement of the regional center representative and the consumer or, where appropriate, the parents, legal guardian, conservator, or authorized representative.

(g) An authorized representative of the regional center and the consumer or, where appropriate, his or her parents, legal guardian, or conservator, shall sign the individual program plan prior to its implementation. If the consumer or, where appropriate, his or her parents, legal guardian, or conservator, does not agree with all components of the plan, they may indicate that disagreement on the plan. Disagreement with specific plan components shall not prohibit the implementation of services and supports agreed to by the consumer or, where appropriate, his or her parents, legal guardian, or conservator. If the consumer or, where appropriate, his or her parents, legal guardian, or conservator, does not agree with the plan in whole or in part, he or she shall be sent written notice of the fair hearing rights, as required by Section 4701.

SEC. 6. 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 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 Section 4590 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 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 annually 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. 7. Section 4648 of the Welfare and Institutions Code is amended to read:

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

(a) Securing needed services and supports.

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

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

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

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



other requirements necessary in order to provide the service.

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

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

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

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



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

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

(6) The regional center and the consumer, or where appropriate, his or her parents, legal guardian, conservator, or authorized representative, including those appointed pursuant to Section 4590 or subdivision (e) of Section 4705, shall, pursuant to the individual program plan, consider all of the following when selecting a provider of consumer services and supports:

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

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

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

(D) The cost of providing services or supports of comparable quality by different providers, if available.

(E) The consumer's or, where appropriate, the parents, legal guardian, or conservator of a consumer's choice of providers.

(7) No service or support provided by any agency or individual shall be continued unless the consumer or, where appropriate, his or her parents, legal guardian, or conservator, or authorized representative, including



those appointed pursuant to Section 4590 or subdivision (e) of Section 4705, is satisfied and the regional center and the consumer or, when appropriate, the person's parents or legal guardian or conservator agree that planned services and supports have been provided, and reasonable progress toward objectives have been made.

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

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

(B) Each person with developmental disabilities placed by the regional center in a community living arrangement shall have the rights specified in this division. These rights shall be brought to the person's attention by any means necessary to reasonably communicate these rights to each resident, provided that, at a minimum, the Director of Developmental Services prepare, provide, and require to be clearly posted in all residential facilities and day programs a poster using simplified language and pictures that is designed to be more understandable by persons with cognitive disabilities and that the rights information shall also be available through the regional center to each residential facility and day program in alternative formats, including, but not limited to, other languages, braille, and audio tapes, when necessary to meet the communication needs of consumers.

(C) Consumers are eligible to receive supplemental services including, but not limited to, additional staffing,



pursuant to the process described in subdivision (d) of Section 4646. Necessary additional staffing that is not specifically included in the rates paid to the service provider may be purchased by the regional center if the additional staff are in excess of the amount required by regulation and the individual's planning team determines the additional services are consistent with the provisions of the individual program plan. Additional staff should be periodically reviewed by the planning team for consistency with the individual program plan objectives in order to determine if continued use of the additional staff is necessary and appropriate and if the service is producing outcomes consistent with the individual program plan. Regional centers shall monitor programs to ensure that the additional staff is being provided and utilized appropriately.

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

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

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

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



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

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

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

(C) Developing unpaid natural supports when possible.

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

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

(2) Whenever the advocacy efforts of a regional center to secure or protect the civil, legal, or service rights of any of its consumers prove ineffective, the regional center or the person with developmental disabilities or his or her parents, legal guardian, or other representative may request the area board to initiate action under the provisions defining area board advocacy functions established in this division.

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

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

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

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



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

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

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

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

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

(g) Where there are identified gaps in the system of services and supports or where there are identified consumers for whom no provider will provide services and supports contained in his or her individual program plan, the department may provide the services and supports directly.

SEC. 8. Section 4648.1 of the Welfare and Institutions Code is amended to read:

4648.1. (a) The State Department of Developmental Services and regional centers may monitor services and supports purchased for regional center consumers with or without prior notice. Not less than two monitoring visits to a licensed long-term health care or community care facility or family home agency home each year shall be unannounced. The department may conduct fiscal reviews and audits of the service providers' records.

(b) Department and regional center staff involved in monitoring or auditing services provided to the regional centers' consumers by a service provider shall have access to the provider's grounds, buildings, and service program, and to all related records, including books, papers,



computerized data, accounting records, and related documentation. All persons connected with the service provider's program, including, but not limited to, program administrators, staff, consultants, and accountants, shall provide information and access to facilities as required by the department or regional center.

(c) The department, in cooperation with regional centers, shall ensure that all providers of services and supports purchased by regional centers for their consumers are informed of all of the following:

(1) The provisions of this section.

(2) The responsibility of providers to comply with laws and regulations governing both their service program and the provision of services and supports to people with developmental disabilities.

(3) The responsibility of providers to comply with conditions of any contract or agreement between the regional center and the provider, and between the provider and the department.

(4) The rights of providers established in regulations adopted pursuant to Sections 4648.2, 4748, and 4780.5, to appeal actions taken by regional centers or the department as a result of their monitoring and auditing findings.

(d) A regional center may terminate payments for services, and may terminate its contract or authorization for the purchase of consumer services if it determines that the provider has not complied with provisions of its contract or authorization with the regional center or with applicable state laws and regulations. When terminating payments for services or its contract or authorization for the purchase of consumer services, a regional center shall make reasonable efforts to avoid unnecessary disruptions of consumer services.

(e) A regional center or the department may recover from the provider funds paid for services when the department or the regional center determines that either of the following has occurred:



(1) The services were not provided in accordance with the regional center's contract or authorization with the provider, or with applicable state laws or regulations.

(2) The rate paid is based on inaccurate data submitted by the provider on a provider cost statement.

Any funds so recovered shall be remitted to the department.

(f) Any evidence of suspected licensing violations found by department or regional center personnel shall be reported immediately to the appropriate state licensing agency.

(g) Regional centers may establish volunteer teams, made up of consumers, parents, other family members, and advocates to conduct the monitoring activities described in this section.

(h) In meeting its responsibility to provide technical assistance to providers of community living arrangements for persons with developmental disabilities, including, but not limited to, licensed residential facilities, family home agencies, and supported or independent living arrangements, a regional center shall utilize the "Looking at Service Quality-Provider's Handbook" developed by the department or subsequent revisions developed by the department.

SEC. 9. The Legislature finds and declares all of the following:

(a) Residential services provided by licensed community care facilities serving persons with developmental disabilities are an essential element in California's system of community care.

(b) The Alternative Residential Model (ARM) currently used to reimburse services provided by these facilities has not been updated since 1988, and certain changes are required to encourage optimum consumer growth and development.

(c) ARM must be updated in order to do all of the following:

(1) Focus more on individual consumer services than on facility classification.



(2) Allow additional flexibility in the delivery and reimbursement of consumer services.

(3) Promote greater integration, independence, productivity, and satisfaction among consumers.

(4) Make changes to the model without creating major disruptions for affected facilities or consumers.

SEC. 10. Section 4681.1 of the Welfare and Institutions Code is amended to read:

4681.1. (a) The department shall adopt regulations that specify rates for community care facilities serving persons with developmental disabilities. The implementation of the regulations shall be contingent upon an appropriation in the annual Budget Act for this purpose. These rates shall be calculated on the basis of a cost model designed by the department which ensures that aggregate facility payments support the provision of services to each person in accordance with his or her individual program plan and applicable program requirements. The cost model shall reflect cost elements that shall include, but are not limited to, all of the following:

(1) “Basic living needs” include utilities, furnishings, food, supplies, incidental transportation, housekeeping, personal care items, and other items necessary to ensure a quality environment for persons with developmental disabilities. The amount identified for the basic living needs element of the rate shall be calculated as the average projected cost of these items in an economically and efficiently operated community care facility.

(2) “Direct care” includes salaries, wages, benefits, and other expenses necessary to supervise or support the person’s functioning in the areas of self-care and daily living skills, physical coordination mobility, and behavioral self-control, choice making, and integration. The amount identified for direct care shall be calculated as the average projected cost of providing the level of service required to meet each person’s functional needs in an economically and efficiently operated community care facility. The direct care portion of the rate shall reflect specific service levels defined by the department



on the basis of relative resident need and the individual program plan.

(3) “Special services” include specialized training, treatment, supervision, or other services which a person’s individual program plan requires to be provided by the residential facility in addition to the direct care provided under paragraph (2). The amount identified for special services shall be calculated for each individual based on the additional services specified in the person’s individual program plan and the prevailing rates paid for similar services in the area. The special services portion of the rate shall reflect a negotiated agreement between the facility and the regional center in accordance with Section 4648.

(4) “Indirect costs” include managerial personnel, facility operation, maintenance and repair, other nondirect care, employee benefits, contracts, training, travel, licenses, taxes, interest, insurance, depreciation, and general administrative expenses. The amount identified for indirect costs shall be calculated as the average projected cost for these expenses in an economically and efficiently operated community care facility.

(5) “Property costs” include mortgages, leases, rent, taxes, capital or leasehold improvements, depreciation, and other expenses related to the physical structure. The amount identified for property costs shall be based on the fair rental value of a model facility which is adequately designed, constructed, and maintained to meet the needs of persons with developmental disabilities. The amount identified for property costs shall be calculated as the average projected fair rental value of an economically and efficiently operated community care facility.

(b) The cost model shall take into account factors which include, but are not limited to, all of the following:

(1) Facility size, as defined by the department on the basis of the number of facility beds licensed by the State Department of Social Services and vendorized by the regional center.



(2) Specific geographic areas, as defined by the department on the basis of cost of living and other pertinent economic indicators.

(3) Common levels of direct care, as defined by the department on the basis of services specific to an identifiable group of persons as determined through the individual program plan.

(4) Positive outcomes, as defined by the department on the basis of increased integration, independence, and productivity at the aggregate facility and individual consumer level.

(5) Owner-operated and staff-operated reimbursement which shall, not differ for facilities that are required to comply with the same program requirements.

(c) The rates established for individual community care facilities serving persons with developmental disabilities shall reflect all of the model cost elements and rate development factors described in this section. The cost model design shall include a process for updating the cost model elements that address variables, including, but not limited to, all of the following:

(1) Economic trends in California.

(2) New state or federal program requirements.

(3) Changes in the state or federal minimum wage.

(4) Increases in fees, taxes, or other business costs.

(5) Increases in federal supplemental security income/state supplementary program for the aged, blind, and disabled payments.

(d) Rates established for developmentally disabled persons who are also dually diagnosed with a mental disorder may be fixed at a higher rate. The department shall work with the State Department of Mental Health to establish criteria upon which higher rates may be fixed pursuant to this subdivision. The higher rate for developmentally disabled persons who are also dually diagnosed with a mental disorder may be paid when requested by the director of the regional center and approved by the Director of Developmental Services.



(e) By January 1, 2001, the department shall prepare proposed regulations to implement the changes outlined in this section. The department may use a private firm to assist in the development of these changes and shall confer with consumers, providers, and other interested parties concerning the proposed regulations. By May 15, 2001, and each year thereafter, the department shall provide the Legislature with annual community care facility rates, including any draft amendments to the regulations as required. By July 1, 2001, and each year thereafter, contingent upon an appropriation in the annual Budget Act for this purpose, the department shall adopt emergency regulations which establish the annual rates for community care facilities serving persons with developmental disabilities for each fiscal year.

(f) During the first year of operation under the revised rate model, individual facilities shall be held harmless for any reduction in aggregate facility payments caused solely by the change in reimbursement methodology.

SEC. 11. Section 4685 of the Welfare and Institutions Code is amended to read:

4685. (a) Consistent with state and federal law, the Legislature finds and declares that children with developmental disabilities most often have greater opportunities for educational and social growth when they live with their families. The Legislature further finds and declares that the cost of providing necessary services and supports which enable a child with developmental disabilities to live at home is typically equal to or lower than the cost of providing out-of-home placement. The Legislature places a high priority on providing opportunities for children with developmental disabilities to live with their families, when living at home is the preferred objective in the child's individual program plan.

(b) It is the intent of the Legislature that regional centers provide or secure family support services that do all of the following:

(1) Respect and support the decisionmaking authority of the family.



(2) Be flexible and creative in meeting the unique and individual needs of families as they evolve over time.

(3) Recognize and build on family strengths, natural supports, and existing community resources.

(4) Be designed to meet the cultural preferences, values, and lifestyles of families.

(5) Focus on the entire family and promote the inclusion of children with disabilities in all aspects of school and community.

(c) In order to provide opportunities for children to live with their families, the following procedures shall be adopted:

(1) The department and regional centers shall give a very high priority to the development and expansion of services and supports designed to assist families that are caring for their children at home, when that is the preferred objective in the individual program plan. This assistance may include, but is not limited to specialized medical and dental care, special training for parents, infant stimulation programs, respite for parents, homemaker services, camping, day care, short-term out-of-home care, child care, counseling, mental health services, behavior modification programs, special adaptive equipment such as wheelchairs, hospital beds, communication devices, and other necessary appliances and supplies, and advocacy to assist persons in securing income maintenance, educational services, and other benefits to which they are entitled.

(2) When children with developmental disabilities live with their families, the individual program plan shall include a family plan component which describes those services and supports necessary to successfully maintain the child at home. Regional centers shall consider every possible way to assist families in maintaining their children at home, when living at home will be in the best interest of the child, before considering out-of-home placement alternatives. When the regional center first becomes aware that a family may consider an out-of-home placement, or is in need of additional specialized services to assist in caring for the child in the



home, the regional center shall meet with the family to discuss the situation and the family's current needs, solicit from the family what supports would be necessary to maintain the child in the home, and utilize creative and innovative ways of meeting the family's needs and providing adequate supports to keep the family together, if possible.

(3) To ensure that these services and supports are provided in the most cost-effective and beneficial manner, regional centers may utilize innovative service-delivery mechanisms, including, but not limited to, vouchers; alternative respite options such as foster families, vacant community facility beds, crisis child care facilities; and alternative child care options such as supplemental support to generic child care facilities and parent child care cooperatives.

(4) If the parent of any child receiving services and supports from a regional center believes that the regional center is not offering adequate assistance to enable the family to keep the child at home, the parent may initiate a request for fair hearing as established in this division. A family shall not be required to start a placement process or to commit to placing a child in order to receive requested services.

(5) Nothing in this section shall be construed to encourage the continued residency of adult children in the home of their parents when that residency is not in the best interests of the person.

(6) When purchasing or providing a voucher for day care services for parents who are caring for children at home, the regional center may pay only the cost of the day care service that exceeds the cost of providing day care services to a child without disabilities. The regional center may pay in excess of this amount when a family can demonstrate a financial need and when doing so will enable the child to remain in the family home.

(7) A regional center may purchase or provide a voucher for diapers for children three years of age or older. A regional center may purchase or provide vouchers for diapers under three years of age when a



family can demonstrate a financial need and when doing so will enable the child to remain in the family home.

SEC. 12. Section 4685.1 is added to the Welfare and Institutions Code, to read:

4685.1. (a) When a minor child requires a living arrangement outside of the family home, as determined in the individual program plan developed pursuant to Section 4646 and Section 4648, the regional center shall make every effort to secure a living arrangement, consistent with the individual program plan, in reasonably close proximity to the family home.

(b) When the parents or guardian of a minor child requests that an out-of-home living arrangement for a minor child be in close proximity to the family home, and when such a living arrangement cannot be secured by the regional center, the regional center shall include with the individual program plan a written statement of its efforts to locate, develop, or adapt appropriate services and supports in a living arrangement within close proximity to the family home and what steps will be taken by the regional center to develop the services and supports necessary to return the child to the family home or within close proximity of the family home. This statement shall be updated every six months, or as agreed to by the parents or guardians, and a copy shall be forwarded to the parents or guardians of the minor and to the director of the department.

(c) This section shall not be construed to impede the movement of consumers to other geographic areas or the preference of the parent or guardian for the placement of their minor child.

SEC. 13. Section 4685.5 is added to the Welfare and Institutions Code, to read:

4685.5. (a) Notwithstanding any other provision of law, commencing January 1, 1999, the department shall conduct a three-year pilot project under which funds shall be allocated for local self-determination pilot programs that will enhance the ability of a consumer and his or her family to control the decisions and resources



required to meet all or some of the objectives in his or her individual program plan.

(b) Local self-determination pilot programs funded pursuant to this section may include, but not be limited to, all of the following:

(1) Programs that provide for consumer and family control over which services best meet their needs and the objectives in the individual program plan.

(2) Programs that provide allowances or subsidies to consumers and their families.

(3) Programs providing for the use of debit cards.

(4) Programs that provide for the utilization of parent vendors, direct pay options, individual budgets for the procurement of services and supports, alternative case management, and vouchers.

(5) Wraparound programs.

(c) The department shall allocate funds for pilot programs in three regional center catchment areas and shall, to the extent possible, test a variety of mechanisms outlined in subdivision (b).

(d) Funds allocated to implement this section may be used for administrative and evaluation costs. Purchase-of-services costs shall be based on the estimated annual service costs associated with each participating consumer and family. Each proposal shall include a budget outlining administrative, service, and evaluation components.

(e) Pilot projects shall be conducted in the following regional center catchment areas:

(1) Tri-Counties Regional Center.

(2) Eastern Los Angeles Regional Center.

(3) Redwood Coast Regional Center.

(f) If any of the regional centers specified in subdivision (e) do not submit a proposal meeting the requirements set forth in this section or by the department, the department may select another regional center to conduct a pilot project.

(g) The department shall develop and issue a request for proposals soliciting regional center participation in the pilot program. Consumers, families, regional centers,



advocates, and service providers shall be consulted during the development of the request for proposal and selection of the pilot areas.

(h) Each area receiving funding under this section shall demonstrate joint regional center and area board support for the local self-determination pilot program, and shall establish a local advisory committee, appointed jointly by the regional center and area board, made up of consumers, family members, advocates, and community leaders and that shall reflect the multicultural diversity and geographic profile of the catchment area. The local advisory committee shall review the development and ongoing progress of the local self-determination pilot program and may make ongoing recommendations for improvement to the regional center. By September 1, 2000, the local advisory committee shall submit to the department recommendations for the continuation and expansion of the program.

(i) The department shall issue a report to the Legislature no later than January 1, 2001, on the status of each pilot program funded by this section and recommendations with respect to continuation and expansion.

(j) Notwithstanding any other provision of law, as of January 1, 1999, of the balances available pursuant to Item 4300-490 of the Budget Act of 1998 for regional centers, the first seven hundred fifty thousand dollars (\$750,000) is reappropriated for the purposes of implementing this section, and shall be available for expenditure until January 1, 2002.

(k) This section shall remain in effect only until January 1, 2002, and as of that date is repealed, unless a later enacted statute, that becomes effective on or before January 1, 2002, extends or deletes that date.

SEC. 14. 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.

SEC. 15. Section 4689.7 is added to the Welfare and Institutions Code, to read:

4689.7. (a) For the 1998–99 fiscal year, levels of payment for supported living service providers that are vendored pursuant to Section 4689 shall be increased based on the amount appropriated in this section for the purpose of increasing the salary, wage, and benefits for direct care workers providing supported living services.



(b) The sum of five million fifty-seven thousand dollars (\$5,057,000) is hereby appropriated in augmentation of the appropriations made in the Budget Act of 1998 to implement this section as follows:

(1) The sum of two million four hundred five thousand dollars (\$2,405,000) is hereby appropriated from the General Fund to the State Department of Health Services in augmentation of the appropriation made in Item 4260-101-0001.

(2) The sum of two million five hundred fifty-one thousand dollars (\$2,551,000) is hereby appropriated from the Federal Trust Fund to the State Department of Health Services in augmentation of the appropriation made in Item 4260-101-0890.

(3) The sum of one hundred one thousand dollars (\$101,000) is hereby appropriated from the General Fund to the Department of Developmental Services in augmentation of the appropriation made in Item 4300-101-0001, scheduled as follows:

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(b) 10.10.020 Purchase of Services	\$5,057,000
(e) Reimbursements	-\$4,956,000

(c) By January 1, 2000, in consultation with stakeholder organizations, the department shall establish by regulation, an equitable and cost-effective methodology for the determination of supported living costs and a methodology of payment for providers of supported living services. The methodology shall consider the special needs of persons with developmental disabilities and the quality of services to be provided.

(d) Following the allocation of funding appropriated in this section, and until these regulations are implemented, no new funds shall be allocated by the department for the purpose of increasing the level of payment for supported living service providers.

SEC. 16. Section 4696.1 of the Welfare and Institutions Code is repealed.



SEC. 17. Section 4696.1 is added to the Welfare and Institutions Code, to read:

4696.1. (a) The Legislature finds and declares that improved cooperative efforts between regional centers and county mental health agencies are necessary in order to achieve each of the following:

(1) Increased leadership, communication, and organizational effectiveness between regional centers and county mental health agencies.

(2) Decreased costs and minimized fiscal risk in serving persons who are dually diagnosed with mental illness and developmental disabilities.

(3) Continuity of services.

(4) Improved quality of mental health outcomes for persons who are dually diagnosed.

(5) Optimized utilization of agency resources by building on the strengths of each organization.

(6) Timely resolution of conflicts.

(b) In order to achieve the outcomes specified in subdivision (a), by July 1, 1999, each regional center and county mental health agency shall develop a memorandum of understanding to do all of the following:

(1) Identify staff who will be responsible for all of the following:

(A) Coordinate service activity between the two agencies.

(B) Identify dually diagnosed consumers of mutual concern.

(C) Conduct problem resolution for those consumers serviced by both systems.

(2) Develop a general plan for crisis intervention for persons served by both systems. The plan shall include after-hours emergency response systems, interagency notification guidelines, and followup protocols.

(3) Develop a procedure by which each dually diagnosed consumer shall be the subject of a case conference conducted jointly by both regional center staff and county mental health as soon as possible after admission into a county operated or contracted acute,



inpatient mental health facility. The case conference shall confirm the diagnosis and the treatment plan.

(4) Develop a procedure by which planning for dually diagnosed consumers admitted to a mental health inpatient facility shall be conducted collaboratively by both the regional center and the local mental health agency and shall commence as soon as possible or as deemed appropriate by the treatment staff. The discharge plan shall include subsequent treatment needs and the agency responsible for those services.

(5) Develop a procedure by which regional center staff and county mental health staff shall collaborate to plan and provide training to community service providers, including day programs, residential facilities, and intermediate care facilities, regarding effective services to persons who are dually diagnosed. This training shall include crisis prevention with a focus on proactively recognizing crisis and intervening effectively with consumers who are dually diagnosed.

(6) Develop a procedure by which the regional center and the county mental health agency shall work toward agreement on a consumer-by-consumer basis on the presenting diagnosis and medical necessity, as defined by regulations of the State Department of Mental Health.

(c) The department and the State Department of Mental Health shall collaborate to provide a statewide perspective and technical assistance to local service regions when local problem resolution mechanisms have been exhausted and state level participation has been requested by both local agencies.

(d) The director of the local regional center and the director of the county mental health agency or their designees shall meet as needed but no less than annually to do all of the following:

(1) Review the effectiveness of the interagency collaboration.

(2) Address any outstanding policy issues between the two agencies.

(3) Establish the direction and priorities for ongoing collaboration efforts between the two agencies.



(e) Copies of each memorandum of understanding shall be forwarded to the State Department of Developmental Services upon completion or whenever amended. The department shall make copies of the memorandum of understanding available to the public upon request.

(f) By May 15 of each year, the department shall provide all of the following information to the Legislature:

(1) The status of the memorandums of understanding developed jointly by each regional center and the county mental health agency and identify any barriers to meeting the outcomes specified in this section.

(2) The availability of mobile crisis intervention services, including generic services, by regional center catchment area, including the names of vendors and rates paid.

(3) A description of each regional center's funded emergency housing options, including the names and types of vendors, the number of beds and rates, including, but not limited to, crisis emergency group homes, crisis beds in a regular group home, crisis foster homes, motel or hotel or psychiatric facility beds, and whether each emergency housing option serves minors or adults and whether it is physically accessible.

SEC. 18. Section 4697 is added to the Welfare and Institutions Code, to read:

4697. (a) The Legislature finds and declares all of the following:

(1) The methods of establishing rates of payment for providers of services and supports to persons with developmental disabilities in the community should reflect the actual costs of ensuring high quality and stable services.

(2) State law and regulations should reflect the type and design of community-based services and supports necessary to best meet the needs and choices of individuals with developmental disabilities and their families.



(3) The licensing, vrending, and monitoring of service and support providers is necessary to ensure the safety and satisfaction of consumers and should be achieved in a manner that is respectful of consumer privacy and choices, responsive to consumers and families, minimizes complexity and duplication, fosters partnership between state agencies and regional centers and provider in the delivery of high-quality services and supports, and respond swiftly to protect the rights and health of consumers.

(4) System stakeholders must work collaboratively and continuously to ensure that the design, funding methodology, and monitoring of the service and support delivery system reflects the values and goals of those served.

(b) It is the intent of the Legislature that the State Department of Developmental Services facilitate joint meetings between system stakeholders, as appropriate, to review the service delivery system and make recommendations for change when desirable. The efforts may include, but are not limited to:

(1) The process by which regional centers vendor providers of services and supports and make recommendations for changes to improve the quality of services and supports and choices of consumers and families in selecting providers.

(2) Ratesetting methodologies and recommendations to maximize cost-effectiveness while emphasizing quality, variety, and flexibility in the delivery of services and supports.

(3) The various monitoring and oversight functions of state and local agencies and recommendations for improving effectiveness and minimizing duplication.

SEC. 19. Section 4712 of the Welfare and Institutions Code, as amended by Section 61 of Chapter 310 of the Statutes of 1998, is amended to read:

4712. (a) The fair hearing shall be held within 50 days of the date the hearing request form is postmarked or received by the service agency, whichever is earlier, unless a continuance based upon a showing of good cause



has been granted to the claimant. The service agency may also request a continuance based upon a showing of good cause, provided that the granting of the continuance does not extend the time period for rendering a final administrative decision beyond the 90-day period provided for in this chapter. For purposes of this section, good cause includes, but is not limited to, the following circumstances:

(1) Death of a spouse, parent, child, brother, sister, grandparent of the claimant or authorized representative, or legal guardian or conservator of the claimant.

(2) Personal illness or injury of the claimant or authorized representative.

(3) Sudden and unexpected emergencies, including, but not limited to, court appearances of the claimant or authorized representative, conflicting schedules of the authorized representative if the conflict is beyond the control of the authorized representative.

(4) Unavailability of a witness or evidence, the absence of which would result in serious prejudice to the claimant.

(5) An intervening request by the claimant or his or her authorized representative for mediation.

(b) Notwithstanding Sections 19130, 19131, and 19132 of the Government Code, the department shall contract for the provision of independent hearing officers. Hearing officers shall have had at least two years of full-time legal training at a California or American Bar Association accredited law school or the equivalent in training and experience as established by regulations to be adopted by the department pursuant to Section 4705. These hearing officers shall receive training in the law and regulations governing services to developmentally disabled individuals and administrative hearings. Training shall include, but not be limited to, the Lanterman Developmental Disabilities Services Act and regulations adopted thereunder, relevant case law, information about services and supports available to persons with developmental disabilities, including



innovative services and supports, the standard agreement contract between the department and regional centers and regional center purchase-of-service policies, and information and training on protecting the rights of consumers at administrative hearings, with emphasis on assisting, where appropriate, those consumers represented by themselves or an advocate inexperienced in administrative hearings in fully developing the administrative record. The State Department of Developmental Services shall seek the advice of the State Council on Developmental Disabilities, the Organization of Area Boards, the protection and advocacy agency designated by the Governor in this state to fulfill the requirements and assurances of the federal Developmental Disabilities Assistance and Bill of Rights Act, contained in Chapter 75 (commencing with Section 6000) of Title 42 of the United States Code, the Association of Regional Center Agencies, and other state agencies or organizations and consumers and family members as designated by the department in the development of standardized hearing procedures for hearing officers and training materials and the implementation of training procedures by the department. The department shall provide formal training for hearing officers on at least an annual basis. The training shall be developed and presented by the department, however, the department shall invite those agencies and organizations listed in this subdivision to participate.

(c) The hearing officer shall not be an employee, agent, board member, or contractor of the service agency against whose action the appeal has been filed, or a spouse, parent, child, brother, sister, grandparent, legal guardian, or conservator of the claimant, or any person who has a direct financial interest in the outcome of the fair hearing, or any other interest which would preclude a fair and impartial hearing.

(d) When requested by the hearing officer, a service agency shall provide information relevant to the matter under appeal to the hearing officer prior to the fair



hearing. Immediate notice of the documents provided to the hearing officer shall be mailed by the service agency to the claimant and the authorized representative, either of whom may submit additional documentation to the hearing officer prior to the hearing.

(e) The fair hearing shall be held at a time and place reasonably convenient to the claimant and the authorized representative. The claimant or the authorized representative of the claimant and the regional center shall agree on the location of the fair hearing.

(f) Merits of a pending fair hearing shall not be discussed between the hearing officer and a party outside the presence of the other party.

(g) The hearing officer shall voluntarily disqualify himself or herself and withdraw from any case in which he or she cannot accord a fair and impartial hearing or consideration. Any party may request the disqualification of the hearing officer by filing an affidavit, prior to the taking of evidence at a hearing, stating with particularity the grounds upon which it is claimed that a fair and impartial hearing cannot be accorded. The issue shall be decided by the hearing officer.

(h) Both parties to the fair hearing shall have the rights specified in subdivision (a) of Section 4710.6.

(i) The fair hearing need not be conducted according to the technical rules of evidence and those related to witnesses. Any relevant evidence shall be admitted. All testimony shall be under oath or affirmation which the hearing officer is empowered to administer.

(j) A recording shall be made of the proceedings before the hearing officer. Any cost of recording shall be borne by the responsible state agency.

(k) The fair hearing shall be conducted in the English language. However, if the claimant, the claimant's guardian or conservator, parent of a minor claimant, or authorized representative does not understand English, an interpreter shall be provided by the responsible state agency.



(l) The fair hearing shall be open to the public except at the request of the claimant or authorized representative or when personnel matters are being reviewed.

(m) The agency awarded the contract for independent hearing officers shall annually conduct, or cause to be conducted, an evaluation of the hearing officers who conduct hearings under this part. The department shall approve the methodology used to conduct the annual evaluation. The agency awarded the contract shall annually submit to the department copies of administrative decisions reviewed by the superior court and a summary analysis of the rationale as to why the superior court affirmed or denied the decisions. Information and data for this evaluation shall be solicited from consumers who were claimants in an administrative hearing over the past year, their family members or authorized representative if involved in the hearing, regional centers, and nonattorney advocates, attorneys who represented either party in an administrative hearing over the past year, and the organizations identified in subdivision (b). The areas of evaluation shall include, but not be limited to, the hearing officers' demeanor toward parties and witnesses, conduct of the hearing in accord with fairness and standards of due process, ability to fairly develop the record in cases where consumers represent themselves or are represented by an advocate that does not have significant experience in administrative hearings, use of legal authority, clarity of written decisions, and adherence to the requirements of subdivision (b) of Section 4712.5. The department shall be provided with a copy of the evaluation and shall use the evaluation in partial fulfillment of its evaluation of the contract for the provision of independent hearing officers. A summary of the data collected and the summary analysis of superior court decisions shall be made available to the public upon request, provided that the names of individual hearing officers and consumers shall not be disclosed.



SEC. 20. Section 4712 of the Welfare and Institutions Code, as amended by Section 61 of Chapter 310 of the Statutes of 1998, is amended to read:

4712. (a) The fair hearing shall be held within 50 days of the date the hearing request form is postmarked or received by the service agency, whichever is earlier, unless a continuance based upon a showing of good cause has been granted to the claimant. The service agency may also request a continuance based upon a showing of good cause, provided that the granting of the continuance does not extend the time period for rendering a final administrative decision beyond the 90-day period provided for in this chapter. For purposes of this section, good cause includes, but is not limited to, the following circumstances:

(1) Death of a spouse, parent, child, brother, sister, grandparent of the claimant or authorized representative, or legal guardian or conservator of the claimant.

(2) Personal illness or injury of the claimant or authorized representative.

(3) Sudden and unexpected emergencies, including, but not limited to, court appearances of the claimant or authorized representative, conflicting schedules of the authorized representative if the conflict is beyond the control of the authorized representative.

(4) Unavailability of a witness or evidence, the absence of which would result in serious prejudice to the claimant.

(5) An intervening request by the claimant or his or her authorized representative for mediation.

(b) Notwithstanding Sections 19130, 19131, and 19132 of the Government Code, the department shall contract for the provision of independent hearing officers. Hearing officers shall have had at least two years of full-time legal training at a California or American Bar Association accredited law school or the equivalent in training and experience as established by regulations to be adopted by the department pursuant to Section 4705. These hearing officers shall receive training in the law



and regulations governing services to developmentally disabled individuals and administrative hearings. Training shall include, but not be limited to, the Lanterman Developmental Disabilities Services Act and regulations adopted thereunder, relevant case law, information about services and supports available to persons with developmental disabilities, including innovative services and supports, the standard agreement contract between the department and regional centers and regional center purchase-of-service policies, and information and training on protecting the rights of consumers at administrative hearings, with emphasis on assisting, where appropriate, those consumers represented by themselves or an advocate inexperienced in administrative hearings in fully developing the administrative record. The State Department of Developmental Services shall seek the advice of the State Council on Developmental Disabilities, the Organization of Area Boards, the protection and advocacy agency designated by the Governor in this state to fulfill the requirements and assurances of the federal Developmental Disabilities Assistance and Bill of Rights Act, contained in Chapter 75 (commencing with Section 6000) of Title 42 of the United States Code, the Association of Regional Center Agencies, and other state agencies or organizations and consumers and family members as designated by the department in the development of standardized hearing procedures for hearing officers and training materials and the implementation of training procedures by the department. The department shall provide formal training for hearing officers on at least an annual basis. The training shall be developed and presented by the department, however, the department shall invite those agencies and organizations listed in this subdivision to participate.

(c) The hearing officer shall not be an employee, agent, board member, or contractor of the service agency against whose action the appeal has been filed, or a spouse, parent, child, brother, sister, grandparent, legal



guardian, or conservator of the claimant, or any person who has a direct financial interest in the outcome of the fair hearing, or any other interest which would preclude a fair and impartial hearing.

(d) The claimant and the service agency shall exchange a list of potential witnesses, the general subject of the testimony of each witness, and copies of all potential documentary evidence at least five days prior to the hearing. The hearing officer may prohibit testimony of a witness that is not disclosed and may prohibit the introduction of documents that have not been disclosed. However, the hearing officer may allow introduction of such testimony or witness in the interest of justice.

(e) The fair hearing shall be held at a time and place reasonably convenient to the claimant and the authorized representative. The claimant or the authorized representative of the claimant and the regional center shall agree on the location of the fair hearing.

(f) Merits of a pending fair hearing shall not be discussed between the hearing officer and a party outside the presence of the other party.

(g) The hearing officer shall voluntarily disqualify himself or herself and withdraw from any case in which he or she cannot accord a fair and impartial hearing or consideration. Any party may request the disqualification of the hearing officer by filing an affidavit, prior to the taking of evidence at a hearing, stating with particularity the grounds upon which it is claimed that a fair and impartial hearing cannot be accorded. The issue shall be decided by the hearing officer.

(h) Both parties to the fair hearing shall have the rights specified in subdivision (a) of Section 4710.6.

(i) The fair hearing need not be conducted according to the technical rules of evidence and those related to witnesses. Any relevant evidence shall be admitted. Both parties shall be allowed to submit documents into evidence at the beginning of the hearing. No party shall be required to formally authenticate any document unless the hearing officer determines the necessity to do



so in the interest of justice. All testimony shall be under oath or affirmation which the hearing officer is empowered to administer.

(j) A service agency shall present its witnesses and all other evidence before the claimant presents his or her case unless the parties agree otherwise or the hearing officer determines that there exists good cause for a witness to be heard out of order. This section does not alter the burden of proof.

(k) A recording shall be made of the proceedings before the hearing officer. Any cost of recording shall be borne by the responsible state agency.

(l) The fair hearing shall be conducted in the English language. However, if the claimant, the claimant's guardian or conservator, parent of a minor claimant, or authorized representative does not understand English, an interpreter shall be provided by the responsible state agency.

(m) The fair hearing shall be open to the public except at the request of the claimant or authorized representative or when personnel matters are being reviewed.

(n) The agency awarded the contract for independent hearing officers shall annually conduct, or cause to be conducted, an evaluation of the hearing officers who conduct hearings under this part. The department shall approve the methodology used to conduct the annual evaluation. The agency awarded the contract shall annually submit to the department copies of administrative decisions reviewed by the superior court and a summary analysis of the rationale as to why the superior court affirmed or denied the decisions. Information and data for this evaluation shall be solicited from consumers who were claimants in an administrative hearing over the past year, their family members or authorized representative if involved in the hearing, regional centers, and nonattorney advocates, attorneys who represented either party in an administrative hearing over the past year, and the organizations identified in subdivision (b). The areas of evaluation shall



include, but not be limited to, the hearing officers' demeanor toward parties and witnesses, conduct of the hearing in accord with fairness and standards of due process, ability to fairly develop the record in cases where consumers represent themselves or are represented by an advocate that does not have significant experience in administrative hearings, use of legal authority, clarity of written decisions, and adherence to the requirements of subdivision (b) of Section 4712.5. The department shall be provided with a copy of the evaluation and shall use the evaluation in partial fulfillment of its evaluation of the contract for the provision of independent hearing officers. A summary of the data collected and the summary analysis of superior court decisions shall be made available to the public upon request, provided that the names of individual hearing officers and consumers shall not be disclosed.

SEC. 21. Section 4712.5 of the Welfare and Institutions Code is amended to read:

4712.5. (a) Except as provided in subdivision (c), within 10 days of the concluding day of the state hearing, but not later than 80 days following the date the hearing request form was postmarked or received, whichever is earlier, the hearing officer shall render a written decision and shall transmit the decision to each party and to the director of the responsible state agency, along with notification that this is the final administrative decision, that each party shall be bound thereby, and that either party may appeal the decision to a court of competent jurisdiction within 90 days of the receiving notice of the final decision.

(b) The hearing officer's decision shall be in ordinary and concise language and shall contain a summary of the facts, a statement of the evidence from the proceedings that was relied upon, a decision on each of the issues presented, and an identification of the statutes, regulations, and policies supporting the decision.

(c) Where the decision involves an issue arising from the federal home- and community-based service waiver program, the hearing officer's decision shall be a



proposed decision submitted to the Director of Health Services as the single state agency for the medicaid program. Within 90 days following the date the hearing request form is postmarked or received, whichever is earlier, the director may adopt the decision as written or decide the matter on the record. If the Director of Health Services does not act on the proposed decision within 90 days, the decision shall be deemed to be adopted by the Director of Health Services. The final decision shall be immediately transmitted to each party, along with the notice described in subdivision (a). If the decision of the Director of Health Services differs from the proposed decision of the hearing officer, a copy of that proposed decision shall also be served upon each party.

(d) The department shall collect and maintain, or cause to be collected and maintained, redacted copies of all administrative hearing decisions issued under this division. Hearing decisions shall be categorized by the type of service or support that was the subject of the hearing and by the year of issuance. The department shall make copies of the decisions available to the public upon request at a cost per page not greater than that which it charges for document requests submitted pursuant to Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code. The department shall use this information in partial fulfillment of its obligation to monitor regional centers and in its evaluation of the contract for the provision of independent hearing officers.

SEC. 22. Section 4731 of the Welfare and Institutions Code is amended to read:

4731. (a) Each consumer or any representative acting on behalf of any consumer or consumers, who believe that any right to which a consumer is entitled has been abused, punitively withheld, or improperly or unreasonably denied by a regional center, developmental center, or service provider, may pursue a complaint as provided in this section.

(b) Initial referral of any complaint taken pursuant to this section shall be to the clients' rights advocate assigned



to the regional center from which the consumer receives case management services. If the consumer resides in a state developmental center, the complaint shall be made to the clients' rights advocate assigned to that state developmental center. The clients' rights advocate shall, within 10 working days of receiving a complaint, investigate the complaint and send a written proposed resolution to the complainant and to the regional center, developmental center, or service provider.

(c) If the complainant expresses dissatisfaction with the action taken or proposed by the clients' rights advocate, the complainant shall be referred, by the clients' rights advocate, within five working days, to the director of the state developmental center or of the regional center.

(d) If the complaint is not resolved to the satisfaction of the complainant within ten working days of receipt by the director of the state developmental center or regional center, it shall be referred by that director to the State Department of Developmental Services. The director shall, within 45 days of receiving a complaint, issue a written administrative decision and send a copy of the decision to the complainant.

(e) The department shall annually compile the number of complaints filed, by each regional center catchment area, the subject matter of each complaint, and a summary of each decision. Copies shall be made available to any person upon request.

(f) This section shall not be used to resolve disputes concerning the nature, scope, or amount of services and supports that should be included in an individual program plan, for which there is an appeal procedure established in this division, or disputes regarding rates or audit appeals for which there is an appeal procedure established in regulations. Those disputes shall be resolved through the appeals procedure established by this division or in regulations.

(g) All consumers or, where appropriate, their parents, legal guardian, conservator, or authorized representative, shall be notified in writing in a language



which they comprehend, of the right to file a complaint pursuant to this section when they apply for services from a regional center or are admitted to a developmental center, and at each regularly scheduled planning meeting.

SEC. 23. Section 4740 of the Welfare and Institutions Code is amended to read:

4740. The Legislature finds the following:

(a) The quality of care provided to persons with developmental disabilities by residential facilities is contingent upon a closely coordinated “team” effort by the regional center or its designee, the person with developmental disabilities, the parent or representative if appropriate, the residential facility administrator, and the licensing agency. The rights and responsibilities of each must be identified in order to assure clear direction and accountability for each.

(b) The quality of care is impaired when inordinate numbers of staff from placement and licensing agencies give direction to the facility administrator regarding care and service requirements.

SEC. 24. Section 4741 of the Welfare and Institutions Code is amended to read:

4741. An adult person with a developmental disability has the legal right to determine where his or her residence will be. Except in a situation which presents immediate danger to the health and well-being of the individual, the regional center or its designee shall not remove a consumer from a residential care facility against the client’s wishes unless there has been specific court action to abridge such right with respect to an adult or unless the parent, guardian or conservator consents with respect to a child.

SEC. 25. Section 4742 of the Welfare and Institutions Code is amended to read:

4742. The regional center or its designated representative shall (a) guide and counsel facility staff regarding the care and services and supports required by each consumer served by the regional center; and (b) monitor the care and services and supports provided the



individual to ensure that care and services and supports are provided in accordance with the individual program plan.

SEC. 26. Section 4742.1 is added to the Welfare and Institutions Code, to read:

4742.1. (a) A statement made by a regional center representative when discharging his or her obligation to monitor the provision of services and supports pursuant to this division shall be a privileged communication, subject to subdivision (b).

(b) A statement shall not be privileged pursuant to subdivision (a) if a party to a judicial action demonstrates that the regional center representative made the disputed statement with knowledge of its falsity or with reckless disregard for the truth.

SEC. 27. Section 4743 of the Welfare and Institutions Code is amended to read:

4743. It is the intent of the Legislature that to the greatest extent possible, the staff of the regional center or its designee are assigned so as to minimize the number of persons responsible for programs provided in a given facility.

The regional center or its designee shall designate the staff person responsible for assuring that each individual consumer's program plan is carried out. One person shall be assigned by the regional center as the principal liaison to a facility and to monitor the provision of care and the services provided by that facility in accordance with the individual program plans. If, due to the number of regional center consumers in the facility, additional staff of a regional center or its designee serve consumers in the facility, one person shall be assigned as having primary responsibility for, and assure consistency and continuity of, directions to the administrator and for the monitoring of care and services.

SEC. 28. Section 4744 of the Welfare and Institutions Code is amended to read:

4744. The regional center or its designee shall provide to the residential facility administrator all information in its possession concerning any history of dangerous



propensity of the consumer prior to the placement in that facility. However, no confidential consumer information shall be released pursuant to this section without the consent of the consumer or authorized representative.

SEC. 29. Section 4745 of the Welfare and Institutions Code is amended to read:

4745. During each visit to the facility, the designated staff person shall inform the administrator orally of any substantial inadequacies in the care and services provided, the specific corrective action necessary and the date by which corrective action must be completed. The designated staff person shall confirm this information in writing to the administrator within 48 hours after the oral notice and inform the administrator in writing of the right to appeal the findings.

SEC. 30. Section 4747 of the Welfare and Institutions Code is amended to read:

4747. If a consumer or, when appropriate, the parent, guardian, or conservator or authorized representative, including those appointed pursuant to Section 4590 or subdivision (e) of Section 4705, requests a relocation, the regional center shall schedule an individual program plan meeting, as soon as possible to assist in locating and moving to another residence.

SEC. 31. Section 4847 is added to the Welfare and Institutions Code, to read:

4847. The State Department of Developmental Services shall coordinate, or require each regional center to coordinate, a meeting within each regional center catchment area between the regional center, the local health facility providers, the State Department of Health Services representatives from the local district office, and the State Department of Developmental Services center staff. The meeting shall be held at least annually to better coordinate services and supports provided to regional center consumers in licensed health facilities.

SEC. 32. (a) The Legislature finds that the current process by which regional centers vendorize community-based service providers is unnecessarily burdensome for both the regional center and for



providers; that it has not had the effect of increasing the range of services and supports necessary to afford consumers and families a meaningful choice in service provider; that it has resulted in an overabundance of some types of services and supports and a scarcity of other types of services and supports; and that it has not enhanced the quality of existing services and supports.

(b) It is the intent of the Legislature that the vendorization process currently defined in statute and regulation be revised to allow regional centers, in partnership with their communities, greater flexibility in vendorizing service and support providers who meet local needs and offer services and supports of high quality.

(c) It is also the intent of the Legislature that the vendorization process ensure that consumers and families have a meaningful choice in the selection of service and support providers and that an independent appeal process be established for providers who wish to challenge a decision of the regional center regarding their vendor status.

SEC. 33. Section 20 of this bill incorporates amendments to Section 4712 of the Welfare and Institutions Code proposed by both this bill and AB 2494. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 1999, (2) each bill amends Section 4712 of the Welfare and Institutions Code, and (3) this bill is enacted after AB 2494, in which case Section 19 of this bill shall not become operative.

SEC. 34. Notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code. If the statewide cost of the claim for reimbursement does not exceed one million dollars (\$1,000,000), reimbursement shall be made from the State Mandates Claims Fund.



Notwithstanding Section 17580 of the Government Code, unless otherwise specified, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.



Approved _____, 1998

Governor

