

ASSEMBLY BILL

No. 1191

Introduced by Assembly Member Longville

February 23, 2001

An act to add and repeal Article 2.5 (commencing with Section 4659.5) of Chapter 5 of Division 4.5 of the Welfare and Institutions Code, relating to services for the developmentally disabled.

LEGISLATIVE COUNSEL'S DIGEST

AB 1191, as introduced, Longville. Developmental disabilities.

Under existing law, the Lanterman Developmental Disabilities Services Act, the State Department of Developmental Services is authorized to contract with regional centers to provide support and services to individuals with developmental disabilities. The regional centers purchase needed services for individuals with developmental disabilities through approved service providers or arrange for their provision through other publicly funded agencies.

This bill, until January 1, 2005, would establish procedures for the resolution of disputes between a regional center and any publicly funded agency, as defined, over provision of, or payment for, services that are contained in an individualized family service plan or individualized program plan for any child under 6 years of age.

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

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

1 SECTION 1. Article 2.5 (commencing with Section 4659.5)
2 is added to Chapter 5 of Division 4.5 of the Welfare and
3 Institutions Code, to read:

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5 Article 2.5. Interagency Dispute Resolution
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7 4659.5. (a) This article shall apply to any dispute over the
8 provision of services between a regional center and any publicly
9 funded agency referred to in paragraph (8) of subdivision (a) of
10 Section 4648 with respect to services that are contained in the
11 individualized family service plan or individualized program plan
12 for any child under six years of age.

13 (b) This article shall apply only to disputes over which entity
14 is to deliver or pay for a specific type, frequency, or duration of
15 services, or any combination thereof, when the services are
16 contained in the individualized family service plan or
17 individualized program plan for any child under six years of age.
18 This article shall not apply to the resolution of disputes between
19 a consumer or his or her authorized representative and a regional
20 center over the provision of, or payment for, a service, nor shall
21 this article apply to the determination of eligibility for any service.

22 (c) This article shall not apply when the dispute has been
23 decided after a due process hearing or resolved by the agreement
24 of all parties, in a proceeding under the California Early
25 Intervention Act, Title 14 (commencing with Section 95000) of
26 the Government Code, in which the regional center and local
27 education agency have been joined.

28 (d) This article does not apply to a dispute when a consumer has
29 requested mediation or a due process hearing under the California
30 Early Intervention Act, Title 14 (commencing with Section
31 95000) of the Government Code, and the regional center and local
32 agency have been joined in the proceeding.

33 4659.7. (a) Whenever there is a dispute between a regional
34 center and another local agency regarding responsibility for
35 providing or paying for a service required pursuant to Section
36 4648 or Section 95020 of the Government Code and specified in
37 the consumer’s individualized family service plan or
38 individualized program plan, the regional center may submit a



1 written notification of the failure to provide the service and a
2 request for dispute resolution to the appropriate local agency the
3 regional center believes is responsible for providing the service or
4 services at issue. The regional center may withdraw its request for
5 dispute resolution at any time during this process.

6 (b) Upon receipt of the written notification made by the
7 regional center, the appropriate local agency and the regional
8 center shall have 15 calendar days to meet to resolve the dispute.
9 The local agency and the regional center shall prepare a written
10 copy of the meeting resolution which shall be mailed to the parent,
11 guardian, or other authorized representative within 10 calendar
12 days of the meeting. The resolution shall specify the type,
13 frequency, and duration of the service or services.

14 (c) (1) If the dispute cannot be resolved within 10 calendar
15 days of the meeting to the satisfaction of the regional center and
16 the appropriate local agency, each party shall submit his or her
17 contentions on the issue in writing to the Director of the Office of
18 Administrative Hearings within 30 calendar days of the meeting.
19 The Director of the Office of Administrative Hearings, or his or
20 her designee, shall review the issue and issue a written decision
21 within 30 calendar days of receipt of the case. The decision shall
22 specify the type, frequency, and duration of the service or services
23 to be provided as specified in the consumer's individualized
24 program plan or individualized family service plan, as well as the
25 regional center or local agency responsible for the service or
26 services. The Office of Administrative Hearings may award
27 reimbursement retroactively to the date the prevailing party
28 initiated the provision of the services that were in dispute. A
29 written copy of the resolution shall be mailed to the parent,
30 guardian, or authorized representative, the Director of
31 Developmental Services, and the regional center or local agency
32 involved in the dispute resolution process.

33 (2) The decision of the Director of the Office of Administrative
34 Hearings, or his or her designee, shall be binding on all agencies
35 that are parties to the dispute.

36 (d) (1) The submission of a notification pursuant to
37 subdivision (a) shall not interfere with a consumer's right to
38 receive the services and supports in his or her individualized
39 family service plan or individualized program plan on a timely
40 basis.



1 (2) If one of the local agencies specified in Sections 4644 and
2 4648 has been providing the service prior to notification of the
3 failure to provide service, that local agency may pay for, or provide
4 the service, until the dispute resolution proceedings are completed.

5 (3) If no local agency specified in Sections 4644 and 4648 has
6 been providing the service prior to the notification of the dispute,
7 the regional center may provide the service in accordance with the
8 individualized family service plan or individualized program plan
9 until the dispute resolution proceedings are completed.

10 (4) Arrangements, other than those specified in paragraphs (2)
11 and (3), may be made by written agreement between the regional
12 center and public agency, provided the child’s individualized
13 family service plan or individualized program plan is not altered,
14 except as to which agency delivers or pays for the service if the
15 specification is included in the individualized family service plan
16 or individualized program plan.

17 (e) Nothing in this section shall prevent a consumer or his or her
18 authorized representative from filing for a due process hearing
19 pursuant to Section 4710.5 or pursuing a remedy through civil
20 action in any court of competent jurisdiction.

21 (f) Once the dispute resolution procedures have been
22 completed, the local agency determined responsible for the service
23 shall pay for and provide the service, and shall reimburse the other
24 agency that provided the service pursuant to subdivision (d), if
25 applicable.

26 (g) The State Department of Developmental Services shall pay
27 for the services provided by the Office of Administrative Hearings
28 pursuant to this section.

29 4659.9. (a) The resolution under this article of whether a
30 regional center or local agency is the responsible party for
31 providing the service in a particular matter shall not set a precedent
32 for the resolution of any other matter.

33 (b) This article shall remain in effect only until January 1, 2005,
34 and as of that date is repealed, unless a later enacted statute, that
35 is enacted before January 1, 2005, deletes or extends that date.

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