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AMENDED IN SENATE JULY 5, 2011

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CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 1244

**Introduced by Assembly Member Chesbro
(Coauthors: Assembly Members Ammiano and Beall)**

February 18, 2011

An act to amend Sections 4677 and 4678 of, to add Article 4.5 (commencing with Section 4689.90) to Chapter 6 of Division 4.5 of, and to repeal Section 4685.7 of, the Welfare and Institutions Code, relating to developmental services.

LEGISLATIVE COUNSEL'S DIGEST

AB 1244, as amended, Chesbro. Developmental services: Self-Determination Program.

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. Under existing law, the regional centers purchase needed services and supports for individuals with developmental disabilities through approved service providers, or arrange for their provision through other publicly funded agencies. The services and supports to be provided to a regional center

consumer are contained in an individual program plan (IPP), developed in accordance with prescribed requirements. Existing law establishes, contingent upon approval of a federal waiver, the Self-Directed Services Program, and requires the program to be available in every regional center catchment area to provide participants, within an individual budget, greater control over needed services and supports.

This bill would repeal the provisions establishing the Self-Directed Services Program and would, instead, contingent upon approval of federal Medicaid matching funding, establish the Self-Determination Program to be available in every regional center catchment area to enable individuals with developmental disabilities to exercise their rights to make choices in their own lives, and would make conforming changes. This bill would require that program participants be provided with a capitated individual funding allocation, as prescribed, to be used for the purchase of services and supports necessary to implement the participant's individual program plan. This bill would require the department to establish a risk pool fund to meet the unanticipated needs of participants in the program. This bill would require the department to take all steps necessary to ensure federal financial participation is available for all program services and supports by applying for amendments to a specified federal waiver or by applying for a new waiver.

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

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

1 SECTION 1. Section 4677 of the Welfare and Institutions Code
2 is amended to read:
3 4677. (a) (1) All parental fees collected by or for regional
4 centers shall be remitted to the State Treasury to be deposited in
5 the Developmental Disabilities Program Development Fund, which
6 is hereby created and hereinafter called the Program Development
7 Fund. The purpose of the Program Development Fund shall be to
8 provide resources needed to initiate new programs, and to expand
9 or convert existing programs. Within the context of, and consistent
10 with, approved priorities for program development in the state
11 plan, program development funds shall promote integrated
12 residential, work, instructional, social, civic, volunteer, and
13 recreational services and supports that increase opportunities for

1 self-determination and maximum independence of persons with
2 developmental disabilities. Notwithstanding any other provision
3 of law or regulation to the contrary, commencing July 1, 2009,
4 parental fees remitted to the State Treasury shall be deposited in
5 accordance with Section 4784.

6 (2) In no event shall an allocation from the Program
7 Development Fund be granted for more than 24 months.

8 (b) (1) The State Council on Developmental Disabilities shall,
9 at least once every five years, request from all regional centers
10 information on the types and amounts of services and supports
11 needed, but currently unavailable.

12 (2) The state council shall work collaboratively with the
13 department and the Association of Regional Center Agencies to
14 develop standardized forms and protocols that shall be used by all
15 regional centers and area boards in collecting and reporting this
16 information. In addition to identifying services and supports that
17 are needed, but currently unavailable, the forms and protocols shall
18 also solicit input and suggestions on alternative and innovative
19 service delivery models that would address consumer needs.

20 (3) In addition to the information provided pursuant to paragraph
21 (2), the state council may utilize information from other sources,
22 including, but not limited to, public hearings, quality assurance
23 assessments conducted pursuant to Section 4571, regional center
24 reports on alternative service delivery submitted to the department
25 pursuant to Section 4669.2, and the annual report on
26 Self-Determination Program services produced pursuant to Section
27 4689.94.

28 (4) The department shall provide additional information, as
29 requested by the state council.

30 (5) Based on the information provided by the regional centers
31 and other agencies, the state council shall develop an assessment
32 of the need for new, expanded, or converted community services
33 and support, and make that assessment available to the public. The
34 assessment shall include a discussion of the type and amount of
35 services and supports necessary but currently unavailable including
36 the impact on consumers with common characteristics, including,
37 but not limited to, disability, specified geographic regions, age,
38 and ethnicity, face distinct challenges. The assessment shall
39 highlight alternative and innovative service delivery models
40 identified through their assessment process.

(6) This needs assessment shall be conducted at least once every five years and updated annually. The assessment shall be included in the state plan and shall be provided to the department and to the appropriate committees of the Legislature. The assessment and annual updates shall be made available to the public. The State Council on Developmental Disabilities, in consultation with the department, shall make a recommendation to the Department of Finance as to the level of funding for program development to be included in the Governor's Budget, based upon this needs assessment.

(c) Parental fee schedules shall be evaluated pursuant to Section 4784 and adjusted annually, as needed, by the department, with the approval of the state council. The July 1, 2009, parental fee adjustment shall be exempt from this approval requirement. Fees for out-of-home care shall bear an equitable relationship to the cost of the care and the ability of the family to pay.

(d) In addition to parental fees and General Fund appropriations, the Program Development Fund may be augmented by federal funds available to the state for program development purposes, when these funds are allotted to the Program Development Fund in the state plan. The Program Development Fund is hereby appropriated to the department, and subject to any allocations that may be made in the annual Budget Act. In no event shall any of these funds revert to the General Fund.

(e) The department may allocate funds from the Program Development Fund for any legal purpose, provided that requests for proposals and allocations are approved by the state council in consultation with the department, and are consistent with the priorities for program development in the state plan. Allocations from the Program Development Fund shall take into consideration the following factors:

(1) The future fiscal impact of the allocations on other state-supported services and supports for persons with developmental disabilities.

(2) The information on priority services and supports needed, but currently unavailable, submitted by the regional centers.

Consistent with the level of need as determined in the state plan, excess parental fees may be used for purposes other than programs specified in subdivision (a) only when specifically appropriated

1 to the State Department of Developmental Services for those
2 purposes.

3 (f) Under no circumstances shall the deposit of federal moneys
4 into the Program Development Fund be construed as requiring the
5 State Department of Developmental Services to comply with a
6 definition of “developmental disabilities” and “services for persons
7 with developmental disabilities” other than as specified in
8 subdivisions (a) and (b) of Section 4512 for the purposes of
9 determining eligibility for developmental services or for allocating
10 parental fees and state general funds deposited in the Program
11 Development Fund.

12 SEC. 2. Section 4678 of the Welfare and Institutions Code is
13 amended to read:

14 4678. (a) The State Council on Developmental Disabilities,
15 in implementing subdivision (b) of Section 4677, and with the
16 support of the State Department of Developmental Services, shall
17 convene a stakeholder workgroup on alternative and expanded
18 options for nonresidential services and supports. The workgroup
19 shall include persons with developmental disabilities, family
20 members, providers, and other system stakeholders. The workgroup
21 shall develop recommendations on how to best achieve all of the
22 following:

23 (1) The development and expansion of community-based models
24 that provide an array of nonresidential options, including, but not
25 limited to, participation in integrated instructive, social, civic,
26 volunteer, and recreational activities.

27 (2) The development and expansion of community-based work
28 activities, including, but not limited to, customized employment
29 development, integrated job training, and employer-provided job
30 coaching.

31 (3) The expansion of work opportunities in the public sector.

32 (4) The increased utilization of existing models, including, but
33 not limited to, Self-Determination Program services, vouchers,
34 family teaching models, existing habilitation, and supported work
35 vendors to facilitate access to nontraditional community-based
36 nonresidential activities.

37 (5) Strategies to promote and duplicate successful and innovative
38 models developed in California and in other states.

39 (6) The identification of, and strategies to address, statutory,
40 regulatory, licensing, vendor-related, funding, and other types of

1 barriers to achieving the goals identified in this act, including
2 strategies to improve individualization of services and supports
3 by increased flexibility in design, staffing, and compensation.

4 (b) By May 1, 2007, the State Council on Developmental
5 Disabilities shall submit recommendations from the workgroup to
6 the Governor and appropriate committees of the Legislature and
7 may, thereafter, incorporate subsequent recommendations into its
8 state plan developed pursuant to Section 4561.

9 SEC. 3. Section 4685.7 of the Welfare and Institutions Code
10 is repealed.

11 SEC. 4. Article 4.5 (commencing with Section 4689.90) is
12 added to Chapter 6 of Division 4.5 of the Welfare and Institutions
13 Code, to read:

14
15 Article 4.5. Self-Determination Program

16
17 4689.90. For the purposes of this section, the following
18 definitions shall apply:

19 (a) "Advocacy services" means services and supports that
20 facilitate the participant in exercising his or her legal, civil, and
21 service rights to gain access to generic services and benefits that
22 the participant is entitled to receive. Advocacy services shall be
23 provided only when other sources of similar assistance are not
24 available to the participant, and when advocacy is directed toward
25 obtaining generic services.

26 (b) "Financial management service" means a conflict-of-interest
27 free service or function that assists the participant to manage and
28 direct the distribution of funds contained in the individual
29 allocation. This may include, but is not limited to, (1) bill paying
30 services and activities that facilitate the employment of service
31 workers by the participant, including, but not limited to, federal,
32 state, and local tax withholding payments, (2) unemployment
33 compensation fees, ~~establishing benefits~~ (3) *providing benefits,*
34 *including workers' compensation and health insurance benefits,*
35 *to the extent that they are or become available to SD support*
36 *workers,* (4) fiscal accounting, and (5) expenditure reports. The
37 financial management service shall provide to the department
38 workforce and expenditure information as required in this article.
39 The department shall establish specific qualifications which shall
40 be required of a financial management services provider and

1 contract with one entity to provide financial management services
2 statewide.

3 (c) “Individual allocation” means the amount of funding
4 available to the participant for the purchase of services and supports
5 necessary to implement an individual program plan (IPP). The
6 individual allocation shall be constructed using a fair, equitable,
7 and transparent methodology ~~that includes, but is not limited to,~~
8 ~~consumer characteristics and needs.~~

9 (d) “Individual budget” means an individually created and
10 designed expenditure plan, developed by the participant, for
11 purchases to be made within the individual allocation to achieve
12 the core quality outcomes relevant to the participant and meet the
13 participant’s IPP goals.

14 (e) “Participant” means an individual, and when appropriate,
15 his or her parents, legal guardian or conservator, or authorized
16 representative, who has been deemed eligible for, and has
17 voluntarily agreed to participate in, the Self-Determination
18 Program.

19 (f) “Public Employment Relations Board” or “board” means
20 the board established pursuant to Article 2 (commencing with
21 Section 3541) of Chapter 10.7 of Division 4 of Title 1 of the
22 Government Code.

23 (g) “Risk pool” means an account that is available for use in
24 addressing the unanticipated needs of participants in the
25 Self-Determination Program.

26 (h) “Self-Determination Program” or “SD Program” means a
27 voluntary delivery system consisting of a defined and
28 comprehensive mix of services and supports, selected and directed
29 by a participant, in order to meet all or some of the objectives in
30 his or her IPP. Self-determination services and supports are
31 designed to assist the participant to achieve personally defined
32 outcomes in inclusive community settings. Self-determination
33 services and supports shall include, but are not limited to, all of
34 the following:

- 35 (1) Home health aide services.
36 (2) Employment and self-employment supports, including
37 individual placement-supported employment.
38 (3) Respite services.
39 (4) Supports broker functions and services.
40 (5) Financial management services and functions.

- 1 (6) Environmental accessibility adaptations.
- 2 (7) Skilled nursing.
- 3 (8) Transportation.
- 4 (9) Specialized medical equipment and supplies.
- 5 (10) Personal emergency response system.
- 6 (11) Integrative therapies.
- 7 (12) Vehicle adaptations.
- 8 (13) Communication support, including interpretive or
- 9 translation services.
- 10 (14) Crises intervention.
- 11 (15) Nutritional consultation.
- 12 (16) Behavior intervention services.
- 13 (17) Specialized therapeutic services.
- 14 (18) Family assistance and support.
- 15 (19) Housing access supports.
- 16 (20) Community living supports, including, but not limited to,
- 17 socialization, personal skill development, community participation,
- 18 recreation, and leisure.
- 19 (21) In-home and personal care supports.
- 20 (22) Advocacy services.
- 21 (23) Individual training and education, including, but not limited
- 22 to, adult education and support to attend community college.
- 23 (24) Participant-designated goods and services.
- 24 (25) Training and education transition services.
- 25 (i) ~~“Self-Determination~~ “*Self-determination* support worker”
- 26 or “SD support worker” means a person who has been selected
- 27 and employed by a participant for an average of at least 25 hours
- 28 per month over a two-month period to provide the relevant SD
- 29 services and supports described in subdivision (h), but does not
- 30 include licensed professionals and workers providing services
- 31 purchased from agencies or other organizations where the worker
- 32 is solely under the employ of those organizations.
- 33 (j) “Supports broker” means a person, selected and directed by
- 34 the participant, who fulfills the supports brokerage service or
- 35 function and assists the participant in the SD Program.
- 36 (k) “Supports brokerage” means a conflict-of-interest free
- 37 service or function that assists participants in making informed
- 38 decisions about how to develop their budget from the individual
- 39 allocation, assists in locating, accessing, and coordinating services
- 40 consistent with and reflecting a participant’s needs and preferences

1 and negotiating with providers. A supports brokerage service is
2 available to assist in identifying immediate and long-term needs,
3 developing options to meet those needs, participating in the
4 person-centered planning process and development of the IPP, and
5 obtaining identified services and supports.

6 4689.91. (a) (1) Contingent upon approval of federal Medicaid
7 matching funding, the Self-Determination Program is hereby
8 established and shall be available in every regional center
9 catchment area to enable individuals with developmental
10 disabilities to exercise their rights to make choices in their own
11 lives and access services and supports as described in subdivision
12 (j) of Section 4502. The program shall give participants greater
13 control over, increased flexibility and choice over, and the ability
14 to access, a wide range of needed and desired services and supports,
15 including, but not limited to, hiring their own workers and
16 purchasing needed items. The SD Program shall be consistent with
17 the requirements set forth in this section.

18 (2) SD Program participants shall be provided with a capitated
19 individual funding allocation computed in a fair, transparent, and
20 equitable manner, based on consumer characteristics and needs.
21 The allocation shall be used for the purchase of services and
22 supports necessary to implement the participant's individual
23 program plan (IPP).

24 (b) The SD Program shall be designed to promote, and shall be
25 evaluated against, core quality outcomes for the participants,
26 including, but not limited to, all of the following:

27 (1) Participants' welfare, health, and safety.

28 (2) Participants living in a place called home, including living
29 with family, friends, or on one's own; adult participants' living
30 arrangements are under their own control.

31 (3) Participants having meaningful participation and membership
32 in their own community.

33 (4) Participants maintaining reciprocal long-term relationships,
34 including relationships that assist the participant to live a healthy,
35 included life.

36 (5) Participants of working age generating private income,
37 through typical jobs in regular employment settings or through
38 self-employment.

39 (6) Participants having access to or control over transportation.

1 (7) Participants having access to a defined and comprehensive
2 mix of services and supports that are selected and directed by a
3 participant.

4 (8) Participants controlling and achieving personally defined
5 outcomes in inclusive community settings.

6 (c) Participation in the SD Program is fully voluntary. A
7 participant may choose to participate in, and may choose to leave,
8 the SD Program at any time. A regional center may not require
9 participation in the SD Program as a condition of eligibility for,
10 or the delivery of, services and supports otherwise available under
11 this division. Participation in the SD Program shall be available
12 to any regional center consumer who meets the following eligibility
13 requirements:

14 (1) The participant is three years of age or older.

15 (2) The participant, and, when appropriate, his or her parents,
16 legal guardian or, conservator, or authorized representative, agrees
17 to all of the following terms and conditions:

18 (A) The participant shall agree to utilize the services and
19 supports available within the SD Program only when generic
20 services cannot be accessed, and except for Medi-Cal state plan
21 benefits when applicable.

22 (B) The participant shall consent to use only services necessary
23 to implement his or her IPP, as an available service in the SD
24 Program, and shall agree to comply with any and all other terms
25 and conditions for participation in the SD Program described in
26 this section.

27 (C) The participant shall manage SD Program services within
28 the individual allocation amount.

29 (D) The participant shall utilize the services of the conflict of
30 interest free financial management services entity.

31 (E) The participant shall utilize the services of a supports broker
32 of his or her own choosing for the purpose of providing services
33 and functions as described in subdivisions (j) and (k) of Section
34 4689.90. A supports broker may either be hired or designated by
35 the participant. A designated supports broker shall perform support
36 brokerage services on a nonpaid basis. An individual or a parent
37 of an individual in the SD Program shall provide supports
38 brokerage services only as an unpaid designated provider.

1 (3) A participant who is not Medi-Cal eligible may participate
2 in the SD Program and receive SD Program services if all other
3 program eligibility requirements are met.

4 (d) An adult may designate an authorized representative to
5 participate in the program on his or her behalf. The representative
6 shall meet all of the following requirements:

7 (1) He or she shall demonstrate knowledge and understanding
8 of the participant's needs and preferences.

9 (2) He or she shall be willing and able to comply with SD
10 Program requirements.

11 (3) He or she shall be at least 18 years of age.

12 (4) He or she shall be approved by the participant to act in the
13 capacity of a representative.

14 (e) Notwithstanding any provision of law, an individual
15 receiving services and supports under the self-determination pilot
16 projects originally established pursuant to Section 13 of Chapter
17 80 of the Statutes of 1998, as amended, may elect to continue to
18 receive self-determination services within his or her current scope
19 and existing procedures and parameters. Participation in
20 self-determination projects originally authorized pursuant to
21 Section 13 of Chapter 80 of the Statutes of 1998, as amended, may
22 only be terminated upon a participant's voluntary election and
23 qualification to receive services under another delivery system.

24 (f) The SD Program shall be phased in during the first year in
25 the five regional centers with self-determination pilot projects that
26 were originally authorized by Section 13 of Chapter 80 of the
27 Statutes of 1998, as amended. In the second year, each regional
28 center shall be responsible for implementing an SD Program as a
29 term of its contract under Section 4629.

30 4689.92. (a) The department shall develop informational
31 materials about the SD Program. The department shall ensure that
32 regional centers are trained in the principles of the SD Program,
33 the mechanics of the SD Program, and the rights of consumers and
34 families as candidates for, and participants in, the SD Program.
35 Regional centers shall conduct local meetings or forums to provide
36 regional center consumers and families with information about the
37 SD Program. Regional centers shall make available to consumers
38 and families who express an interest in participating in the SD
39 Program a timely in-depth orientation; however, enrollment in the
40 SD Program shall not be delayed or conditioned on the orientation.

(b) Prior to enrollment in the SD Program, and based on the methodology described in this subdivision, an individual; and, when appropriate, his or her parents, legal guardian~~or~~, conservator, or authorized representative; shall be provided, in writing ~~with the individual allocation amount that, two individual allocation amounts.~~ *The individual and, when appropriate, his or her parents, legal guardian, conservator, or authorized representative may then choose which of the two individual allocation amounts would be provided for developing his or her individual budget to implement his or her IPP. The individual; and, when appropriate, his or her parents, legal guardian~~or~~, conservator, or authorized representative; may then elect to participate in the SD Program.*

~~(1) The methodology~~ *methodologies* and formulae for determining the ~~two individual allocation amount amounts~~ shall be computed in a fair, transparent, and equitable manner; ~~that includes, but is not limited to, consumer characteristics and needs.~~ The ~~methodology~~ *methodologies* shall specify the mechanism by which a consumer's individual allocation shall be adjusted to allow for ~~increased wages established~~ *increases* in the base compensation package established in ~~subdivision (a) of~~ Section 4689.93. The department shall meet with the Self-Determination Program Advisory Committee, established pursuant to Section 4689.94, to receive their input on developing the ~~methodology~~ *methodologies*.

~~(2) The methodologies and formulae for determining the two individual allocation amounts shall be as follows:~~

~~(A) One individual allocation amount shall equal 90 percent of the annual purchase of services costs for the individual. The annual costs shall reflect the average annual costs for the individual for the previous two fiscal years.~~

~~(2) The~~

~~(B) One individual allocation amount shall equal 90 percent of the annual per capita purchase of service costs for the previous fiscal year for consumers with similar characteristics, who do not receive services through the SD Program. The allocation methodology shall be constructed using data available on the State Department of Developmental Services' information system, including, but not limited to, age, type of residence, type of disability and ability, functional skills, support needs, and whether the individual is in transition. Until the first full year of historical data is available, the department shall adjust the allocation to~~

1 estimate the impact of service reductions resulting from the Budget
2 Act of 2011.

3 (3) The allocation methodology shall provide for additional
4 necessary resources when a participant is transitioning from a
5 family home or a congregate setting to living independently.

6 (4) Once an individual; and, when appropriate, his or her parents,
7 legal guardian~~or~~, conservator, or authorized representative, has
8 elected to become an SD Program participant, his or her individual
9 allocation amount shall be available to the participant each year
10 for the purchase of SD Program services until a new individual
11 allocation amount has been determined *pursuant to paragraph (9)*
12 *of subdivision (c)*. An individual allocation amount shall be
13 calculated no more than once in a 12-month period.

14 (5) A regional center's calculation of an individual allocation
15 amount may be appealed to the executive director of the regional
16 center, or his or her designee, within 30 days after ~~receipt~~ *receiving*
17 *the statement* of the allocation amount. The executive director of
18 the regional center shall issue a written decision within 10 working
19 days. The decision of the executive director may be appealed to
20 the Director of Developmental Services, or his or her designee,
21 within 15 days of receipt of the written decision. The decision of
22 the department is final.

23 (c) Once an individual; and, when appropriate, his *or her* parents,
24 legal guardian~~or~~, conservator, or authorized representative, has
25 elected to become an SD Program participant and his or her
26 individual allocation amount has been determined, the following
27 shall occur:

28 (1) A regional center shall advance funds to the financial
29 management services entity to support a participant's hiring of a
30 supports broker *to assist with person-centered planning, budget*
31 *development, and the Individual Program Plan, pursuant to*
32 *paragraphs (2), (3), and (6). These funds shall be independent of*
33 *the allocation computed pursuant to subdivision (b)*.

34 (2) The participant; and, when appropriate, his *or her* parents,
35 legal guardian~~or~~, conservator, or authorized representative, with
36 the assistance of the service broker and other members of his or
37 her circle of support, if appropriate, shall develop a person-centered
38 plan and individual budget within the amount of the individual
39 allocation. The plan and budget shall be designed to assist the
40 participant to achieve the relevant core quality outcomes specified

1 in paragraphs (1) to (8), inclusive, of subdivision (b) of Section
2 4689.91.

3 (3) The individual budget shall *enable participants to achieve*
4 *personally defined outcomes in inclusive community settings, using*
5 *services and supports selected and directed by the participant.*
6 *The individual budget shall* distribute the allocation, including
7 expenditures for services and supports, among the following
8 categories based on the core quality outcomes specified in
9 paragraphs (1) to ~~(8)~~ (6), inclusive, of subdivision (b) of Section
10 4689.91:

11 (A) Welfare, health, and safety.

12 (B) Supports for living in a place called home.

13 (C) Meaningful participation and membership in the community
14 including, but not limited to, socialization, recreational, and
15 educational opportunities.

16 (D) Developing and maintaining long-term relationships.

17 (E) Generating income, supports for employment, or
18 self-employment.

19 (F) Transportation.

20 (4) A participant may not use any portion of his or her individual
21 allocation to purchase services from a licensed long-term health
22 care facility, as defined in paragraph (44) of subdivision (a) of
23 Section 54302 of Title 17 of the California Code of Regulations,
24 or a residential facility, as defined in paragraph (55) of subdivision
25 (a) of Section 54302 of Title 17 of the California Code of
26 Regulations. A participant may not use his or her individual
27 allocation to purchase complete day program or habilitation
28 services, as defined in paragraph (16) or (34) of subdivision (a) of
29 Section 54302 of Title 17 of the California Code of Regulations,
30 respectively. However, a participant may use a portion of his or
31 her individual allocation to negotiate for specific periodic or
32 one-time services from a day program or habilitation services
33 provider. A participant may also use a portion of his or her
34 allocation to purchase job development and job coaching services
35 for individual placement-supported employment.

36 (5) Consumers currently living in a licensed long-term health
37 care facility, as defined in paragraph (44) of subdivision (a) of
38 Section 54302 of Title 17 of the California Code of Regulations,
39 or a residential facility, as defined in paragraph (55) of subdivision
40 (a) of Section 54302 of Title 17 of the California Code of

Regulations, or receiving day program or habilitation services, as defined in paragraph (16) or (34) of subdivision (a) of Section 54302 of Title 17 of the California Code of Regulations, respectively, may request that the regional center provide person-centered planning services in order to make arrangements for transition to the SD Program. In that case, *within 30 days of a request*, the regional center shall initiate person-centered planning services ~~within 30 days of a request~~ pursuant to paragraphs (1) and (2).

(6) The planning team, established pursuant to subdivision (j) of Section 4512, shall review and utilize the person-centered plan developed in paragraph (2) to develop the IPP for the participant. The IPP shall detail the goals and objectives of the participant that are to be met through the purchase of participant-selected services and supports. The planning team shall also review the individual budget to ensure the budget assists the participant to achieve the relevant core quality outcomes identified in paragraphs (1) to (8), inclusive, of subdivision (b) of Section 4689.91, ensures his or her health and safety, and implements his or her IPP goals. The completed budget shall be attached to the IPP.

(7) The participant shall implement his or her IPP, including choosing the services and supports allowable under this section necessary to implement the plan. A regional center may not prohibit the purchase of any service or support that is otherwise allowable under this section.

(8) Annually, participants may transfer up to 20 percent of the funds originally distributed to any budget category set forth in paragraph (3), to another budget category or categories. Transfers in excess of 20 percent of the original amount allocated to any budget category may be made upon the approval of the regional center. Regional centers may only deny a transfer if necessary to protect the health and safety of the participant, *or if the budgeted funds fail to address the core quality outcomes pursuant to paragraph (6)*.

(9) Consistent with the implementation date of the IPP, the regional center shall annually ascertain from the participant whether there are any circumstances that require a change to the annual individual allocation amount as calculated pursuant to subdivision (b). Based on that review, the regional center shall calculate a new budget amount based on the methodology described in subdivision

1 (b). The participant may choose the new budget amount, or
2 continue using the current amount. The IPP shall be amended to
3 reflect any changes in the allocation.

4 (d) The department shall establish a risk pool fund to meet the
5 unanticipated needs of participants in the SD Program. The fund
6 is hereby administered by the department.

7 (1) The risk pool shall be funded at the equivalent of 2.5 percent
8 of the historical annual purchase of service costs for consumers
9 participating in the SD Program, as determined for consumers of
10 similar characteristics pursuant to paragraph (2) of subdivision
11 (b).

12 (2) The risk pool shall be allocated by the department to regional
13 centers through a process specified by the department.

14 (3) The risk pool may be used only in the event of substantial
15 change in a participant's service and support needs that were not
16 known at the time the individual allocation was set, including, but
17 not limited to, an urgent need to relocate a residence or to prevent
18 or respond to significant injury or illness.

19 (4) The risk pool may be accessed by a participant more than
20 once in a lifetime.

21 (e) The department shall allocate 7.5 percent of the historical
22 annual purchase of service costs for consumers participating in
23 the SD Program, as determined for consumers of similar
24 characteristics pursuant to paragraph (2) of subdivision (b), toward
25 offsetting costs to the state of the SD Program with the remainder
26 to be returned as savings to the General Fund. Program costs to
27 the state shall include, but not be limited to, training of consumers,
28 family members, regional centers, and service brokers, caseload
29 ratio improvement, and service broker support for participants'
30 initial person-centered planning and budget plan development.

31 (f) The regional center service coordinator shall assist consumers
32 and, when appropriate ~~his or her~~, *their* parents, legal guardian ~~or~~,
33 conservator, or authorized representative, in understanding the SD
34 Program service option, assist participants to understand their
35 rights, responsibilities, and opportunities under the SD Program,
36 and provide information on locating service brokers. The regional
37 center service coordinator shall, as required by this section,
38 determine the SD Program participant's individual allocation
39 amount, participate in the IPP, approve the initial individual budget
40 and amendments to the budget, ensure plans and services are

adequate to ensure the participants' health, welfare, and safety, address the goals of the IPP and the core quality outcomes specified in paragraphs (1) to (8), inclusive, of subdivision (b) of Section 4689.91, monitor for abuse, fraud, and exploitation, monitor the quarterly budget report for rate of expenditure and consistency with the budget plan, annually ascertain from the participant whether there are any circumstances that require a change to the annual individual allocation amount, conduct quarterly visits as required by the department, and assist the participant to access the risk pool in the event of a substantial change in a participant's service and support needs that ~~were~~ was not known at the time the individual allocation was set. Regional centers, therefore, shall provide an average service coordinator-to-consumer ratio of 1 to 62 for all SD Program participants. To the maximum extent possible, regional centers shall assign SD Program participants to service coordinators with a designated SD Program caseload.

(g) The financial management service shall send to the participant and the regional center case manager a quarterly statement that describes the amount of allocation by budget category, the amount spent in the previous 90-day period, and the amount of funding that remains available under the participant's individual budget.

(h) If at any time during participation in the SD Program a regional center determines that an individual is no longer eligible to continue based on the eligibility criteria described in subdivision (c) of Section 4689.91, or a participant voluntarily chooses to exit the SD Program, the regional center shall provide for the participant's transition from the SD Program to other services and supports. This shall include the development of a new individual program plan that reflects the services and supports necessary to meet the individual's needs. The regional center shall ensure that there is no gap in services and supports during the transition period.

(1) Upon determination of ineligibility pursuant to this subdivision, the regional center shall inform the participant in writing of his or her ineligibility, the reason for the determination of ineligibility, and shall provide a written notice of the fair hearing rights, as required by Section 4701.

(2) An individual determined to be ineligible, or who voluntarily exits the SD Program, shall be permitted to return to the SD

1 Program upon meeting all applicable eligibility criteria and after
2 a minimum of 12 months time has elapsed.

3 (i) A participant in the SD Program shall have all the rights
4 established in Chapter 7 (commencing with Section 4700), except
5 as provided under paragraph (5) of subdivision (b).

6 (j) Only the financial management service provider is required
7 to apply for vendorization in accordance with subchapter 2
8 (commencing with Section 54300) of Chapter 3 of Title 17 of the
9 California Code of Regulations, for the SD Program. All other
10 service providers shall have applicable state licenses, certifications,
11 or other state required documentation, but are exempt from the
12 vendorization requirements set forth in Title 17 of the California
13 Code of Regulations. The financial management services entity
14 shall ensure and document that all service providers meet specified
15 requirements for any service that may be delivered to the
16 participant.

17 (k) A participant enrolled in the SD Program pursuant to this
18 section and utilizing an individual allocation for services and
19 supports is exempt from Section 4783, the Family Cost
20 Participation Program, and cost control restrictions, including, but
21 not limited to, purchases of services pursuant to Sections 4648.35,
22 4648.5, and 4659, subparagraph (B) of paragraph (3) of subdivision
23 (c) of Section 4685, Sections 4686.2, 4686.5, and 4689, and
24 purchase of service best practices enacted pursuant to *Section*
25 4620.3.

26 4689.93. (a) The Legislature finds and declares that SD
27 Program support workers are the foundation necessary for SD
28 Program participants to access full community participation and
29 employment opportunities and to pursue a life of meaning in the
30 ways that they choose.

31 (b) Participants shall have the right to utilize their individual
32 allocation to employ SD support workers of their choice, hire,
33 supervise, direct, schedule, evaluate, train, and terminate
34 employment of SD support workers. Except for the limited
35 purposes set forth herein, the state shall not be deemed the
36 employer of SD support workers for any purpose.

37 (c) The state shall support the quality, availability, and stability
38 of direct support workers by establishing a base compensation
39 package to ensure decent pay standards for workers in the program.
40 Individuals may use their allocation and private sources of funds

1 to pay SD support workers above the base established by the state,
2 develop job descriptions, and otherwise organize and incentivize
3 their SD support workers.

4 (d) SD support workers may form, join, and participate in the
5 activities of labor organizations of their own choosing in order to
6 engage in collective negotiations with the department with regard
7 to all matters specified in paragraph (4).

8 (1) Within 10 days of receipt of a request from a labor
9 organization that represents SD support workers, the department
10 shall provide the following information concerning SD support
11 workers:

12 (A) Name, address, telephone number, and any unique personal
13 identification generated by the department.

14 (B) Wage rates earned by each SD support worker.

15 (C) Hours of services provided by each SD support worker. The
16 department shall be required to collect the information on no less
17 than a quarterly basis from any financial management services
18 providers that process payments for SD support workers.

19 (2) A labor organization that represents SD support workers
20 may petition the board to be designated as the exclusive negotiating
21 representative of SD support workers in the state.

22 (A) The only appropriate bargaining unit of SD support workers
23 shall consist of all SD support workers in the state.

24 (B) If a labor organization that represents SD support workers
25 petitions the board to be designated as the negotiating
26 representative for SD support workers and provides written
27 authorization from a majority of the total number of workers in
28 the unit as of January of the year in which the petition is made,
29 the board shall designate that organization as the exclusive
30 negotiating representative for all SD support workers in the unit.

31 (C) If a labor organization that represents SD support workers
32 petitions to be designated as the negotiating representative for all
33 SD support workers in the unit and provides written authorization
34 to serve as the negotiating representative from at least 30 percent
35 of the workers in the unit, an election shall be held pursuant to
36 board policies and procedures within 90 days after the day on
37 which the petition is filed. The board shall designate the labor
38 organization that prevails in the election the exclusive negotiating
39 representative for all SD support workers in the unit.

1 (D) *The board may designate a neutral third party to act on*
2 *petitions filed with the board under subparagraph (B) or (C).*

3 (E) *The costs of verifying the number of SD support workers*
4 *who have authorized a labor union to be their negotiating*
5 *representative under subparagraph (B) shall be paid by the labor*
6 *organization that petitions the board to be designated as the*
7 *negotiating representative. The cost of an election held under*
8 *subparagraph (C) shall be shared equally by all labor*
9 *organizations placed on the ballot.*

10 (3) The designated exclusive negotiating representative pursuant
11 to paragraph (2) shall be the negotiating representative for all SD
12 support workers in the unit for the purposes of this subdivision.

13 (A) An SD support worker may refuse to join or participate in
14 the activities of the designated negotiating representative.

15 (B) The designated negotiating representative shall represent
16 all SD support workers in the bargaining unit fairly and without
17 discrimination and without regard to whether the workers are
18 members of the labor organization designated as the negotiating
19 representative.

20 (C) The designated negotiating representative may charge a
21 reasonable fair share service fee to bargaining unit nonmembers,
22 who meet the minimum hour criteria described in subdivision (i)
23 of Section ~~4689.9~~ 4689.90, for representing them in negotiations,
24 contract administration, and other activities *germane to the*
25 *designated negotiating representative's role as the exclusive*
26 *negotiating representative of SD support workers.* The costs
27 covered by the fair share service fee pursuant to this section may
28 include, but are not limited to, costs associated with representing
29 SD support workers pursuant to paragraph (4). The fair share service
30 fee shall not exceed the annual dues paid by members of the labor
31 organization designated as the negotiating representative of SD
32 support workers.

33 (4) The designated negotiating representative of SD support
34 workers shall negotiate with the department concerning the terms
35 and conditions of workers' participation in the SD Program
36 including all of the following:

37 (A) The base compensation package mandated by this article,
38 *which includes, but is not limited to, wages and access to benefits,*
39 *including workers' compensation and health insurance benefits,*
40 *for SD support workers.*

1 ~~(B)~~ Access to benefits for SD support workers.

2 ~~(C)~~

3 (B) Payment procedures.

4 ~~(D)~~

5 (C) Training and career development opportunities.

6 ~~(E)~~

7 (D) Deduction of membership dues and fair share service fees.

8 (5) The designated negotiating representative of SD support
9 workers shall not negotiate over terms and conditions of
10 employment reserved for the participant pursuant to subdivisions
11 (b) and (c).

12 (6) The designated negotiating representative of SD support
13 workers shall not call or direct a strike or any other form of work
14 stoppage.

15 (7) The board's jurisdiction shall include all matters related to
16 the representation of SD support workers.

17 (e) A participant in the SD Program may request, at no charge
18 to the participant or the regional center, criminal history
19 background checks for persons seeking employment as a service
20 provider and providing direct care services to the participant.

21 (1) Criminal history records checks pursuant to this subdivision
22 shall be performed and administered as described in subdivision
23 (b) and subdivisions (d) to (h), inclusive, of Section 4689.2, and
24 Sections 4689.4 to 4689.6, inclusive, and shall apply to
25 vendorization of providers and hiring of employees to provide
26 services for family home agencies and family homes.

27 (2) The department may enter into a written agreement with the
28 Department of Justice to implement this subdivision.

29 4689.94. (a) The department shall establish a statewide
30 Self-Determination Program Advisory Committee. Greater than
31 50 percent of the committee shall be comprised of SD Program
32 participants and their family members representing the geographic,
33 ethnic, and language diversity of the state. Other committee
34 members shall include representatives from the State Council on
35 Developmental Disabilities, Disability Rights California, a
36 University Center for Excellence in Developmental Disabilities,
37 regional centers, and a labor representative of regional center
38 employees. The committee shall meet at least semiannually and
39 participate in system oversight and advise with respect to ongoing
40 system design and implementation and SD support worker wages,

1 benefits, training, and career development. In addition, the
2 committee shall meet with the department at least twice during the
3 initial development phase of the SD Program to provide input on
4 the ~~methodology~~ *methodologies* for calculating individual
5 allocations and other initial implementation issues.

6 (b) Notwithstanding Section 10231.5 of the Government Code,
7 commencing January 10, 2013, the department shall annually
8 provide the following information to the SD Program Advisory
9 Committee and to the policy and fiscal committees of the
10 Legislature:

11 (1) The number and characteristics of participants, by regional
12 center.

13 (2) The range and average of individual allocations, by regional
14 center.

15 (3) Utilization of the risk pool, including range and average
16 individual allocation augmentations and type of service, by regional
17 center.

18 (4) The proportion of participants who report that their choices
19 and decisions are respected and supported.

20 (5) Detailed workforce metrics for SD support workers including
21 wages, hours worked, and length of time on the job.

22 (6) The number and outcome of individual allocation appeals,
23 by regional center.

24 (7) The number and outcome of fair hearing appeals, by regional
25 center.

26 (8) The number of participants who voluntarily withdraw from
27 participation in the SD Program and a summary of the reasons
28 why, by regional center.

29 (9) The number of participants who are subsequently determined
30 to no longer be eligible for the SD Program and a summary of the
31 reasons why, by regional center.

32 (10) Identification of barriers to participation and
33 recommendations for program improvements.

34 (11) A comparison of average annual expenditures for
35 individuals with similar characteristics not participating in the SD
36 Program.

37 (c) Notwithstanding Section 10231.5 of the Government Code,
38 commencing June 30, 2015, and at three year intervals, the
39 department shall submit an SD Program evaluation to the relevant
40 policy committees of the Legislature and the SD Program Advisory

1 Committee. The evaluation shall be developed in consultation with
2 the advisory committee and shall be based on the core quality
3 outcomes described in subdivision (b) of Section 4689.91 and also
4 include a summary of all of the following:

5 (1) The types and ranking of services and supports purchased
6 under the SD Program, by regional center.

7 (2) Consumer satisfaction under the SD Program and, when
8 data is available, the traditional service delivery system, by regional
9 center.

10 (3) The proportion of participants who report they are able to
11 recruit, hire, and retain qualified service providers.

12 (4) The adequacy of the risk pool established pursuant to
13 subdivision (d) of Section 4689.92.

14 4689.95. It is the intent of the Legislature that the purchase of
15 services and supports through the SD Program be eligible for
16 federal Medicaid match funding. The department shall take all
17 steps necessary to ensure federal financial participation is available
18 for all SD Program services and supports by applying for
19 amendments to the current home- and community-based waiver
20 for individuals with developmental disabilities or for a new waiver
21 pursuant to Section 1396n of Title 42 of the United States Code:
22 ~~The department shall seek, or by seeking~~ to maximize federal
23 financial participation by applying for an enhanced federal match
24 through the federal Community First Choice Option pursuant to
25 Section 1396n(k) of Title 42 of the United States Code.