



EXECUTIVE COMMITTEE MEETING NOTICE/AGENDA

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DATE: April 10, 2012
TIME: 10 a.m. – 12 p.m.
LOCATION: State Council on Developmental Disabilities
1507 21st Street, Suite 210
Sacramento, CA 95811
(916) 322-8481

TELECONFERENCE SITES:

Area Board 11
2000 E. Fourth Street, Suite 115
Santa Ana, CA 92705

*Pursuant to Government code Sections 11123.1 and 11125(f), individuals with disabilities who require accessible alternative formats of the agenda and related meeting materials and/or auxiliary aids/services to participate in this meeting should contact Robin Maitino at (916) 322-8481 or email robin.maitino@scdd.ca.gov. Requests must be received by 5:00 pm **April 6, 2011**.*

AGENDA

**Denotes action item*

		<u>Page</u>
1. CALL TO ORDER	L. Cooley	
2. ESTABLISHMENT OF QUORUM	L. Cooley	
3. WELCOME/INTRODUCTIONS	L. Cooley	
*4. APPROVAL OF DECEMBER 2011 MINUTES	L. Cooley	3

5. PUBLIC COMMENTS

*This item is for members of the public only to provide an opportunity to comments and/or present information to the Council on matters **not** on the agenda. Each person will be afforded up to three minutes to speak. Written requests, if any, will be considered first. The Council will provide a public comment period, not to exceed a total of seven minutes, for public comment prior to action on each agenda item.*

6. FINANCIAL UPDATE M. Danti 7

7. COMMITTEE UPDATES

a. LEGISLATIVE AND PUBLIC POLICY R. Ceragioli

* (i)	Assembly Bill 2338- Employment First	8
* (ii)	Assembly Bill 171- PDD/Autism	36
* (iii)	Assembly bill 1244- Self-Determination	53
* (iv)	Assembly Bill 1553- Medi-Cal Managed Care	78
* (v)	Assembly Bill 1554- Regional Centers	88
* (vi)	Assembly Bill 1525- Abuse	93
* (vii)	2012-13 Governor's Budget	99

***8. SPONSORSHIP REQUEST** C. Risley 107

***9. 2013 GRANT CYCLE PROPOSAL** C. Risley 114

10. ADJOURNMENT L. Cooley

Draft
Executive Committee and Subcommittee on Planning Meeting
Minutes
December 13, 2011

Attending Members

Jennifer Allen
Ray Ceragioli
Lisa Cooley
Olivia Raynor
Leroy Shipp, Chairperson

Members Absent

Michael Bailey

Others Attending

Melissa Corral
Michael Danti
Robin Maitino
Roberta Newton
Carol Risley

1. **Call to Order**

Leroy Shipp called the meeting to order at 1:10 p.m. and established a quorum present.

2. **Welcome and Introductions**

Members and staff introduced themselves.

3. **Approval of August 16, 2011 Minutes**

It was moved/seconded (Ceragioli/Cooley) and carried to approve the August 16, 2011, Executive Committee meeting minutes as presented.

4. **Public Comments**

Leroy Shipp announced how much Michael Bailey would be missed.

5. **Financial Update**

Michael Danti presented the financial statement, noting that our spending level is on target. All area boards are on target and within their allocations. Michael confirmed we have enough cash to make it through this fiscal year.

6. Committee Updates

a. **Legislative and Public Policy**

Assembly Bill (AB) 1244 was brought to November Council meeting for action. Due to a lack of quorum, this item was referred to Executive Committee for action. It was moved/seconded (Allen/Raynor) and carried to support AB 1244 as recommended by LPPC.

AB 254 was brought to the November Council meeting for action. Due to a lack of quorum, this item was referred to Executive Committee for action. It was moved/seconded (Raynor/Allen) and carried to support and sponsor AB 254 as recommended by LPPC.

2011-12 State Budget Trigger

Carol Risley reported on the December 13, 2011 announcement from the Department of Finance (DOF) that state income (revenues) are not what was hoped for when the 2011-12 State Budget was passed in June 2011 and because of that, a pre-panned “trigger” was pulled and there would be \$1 billion reductions in budgets that pay for services and supports to individuals with disabilities, education and others. This trigger was part of the budget passed back in June just in case income did not appear as hoped and while some additional money did come in, it was not enough to cover the \$4 billion hole left when the budget was passed.

Carol provided the committee a chart from DOF that detailed where the nearly \$1 billion in cuts would be made on January 1, 2012. Two items directly impact individuals with disabilities and seniors, those being the \$100 million reduction in the developmental services system, and \$101 million in in-home supportive services (IHSS).

Carol went on to share that a DOF spokesperson noted that the \$100 million reduction for developmental services will be managed within existing authority to manage the budget by the Department of Developmental Services (DDS) and that savings may come from developmental centers, reduced caseloads, extending the current payment discounts, and savings from insurance coverage for autism services. DOF also stated that “some additional legislation may be necessary to absorb these cuts in 2012-13”.

Following the announcement, the Council was contacted by Terri Delgadillo and Mark Hutchinson from DDS to provide similar and additional information regarding the cuts to the developmental services budget. Terri reiterated that DDS expects to manage the reduction within its existing authority and will be looking a savings from caseload changes, unexpended contracts, and additional income, among other things. When asked about the impact of these cut upon federal funds potentially matched with these state funds, Terri indicated that there is no way of knowing what the impact might be.

b. State Plan

The 2012-16 State Plan was submitted to ADD. A peer review panel provided input in the form of strengths, weaknesses, and recommendations. Two major recommendations were to compress our 15 Goals into five goals and to beef up our proposed evaluation plan. SCDD does not believe it would be an improvement to reduce the number of goals since California is such a large state and so many issues are being pursued. SCDD will, however, take another look at the evaluation plan and revise, with Olivia Raynor's assistance.

7. Sponsorship Request

The sponsorship request from Jay Nolan Community Services was brought to the November Council meeting for action. Due to a lack of quorum, this item was referred to Executive Committee for action. Jay Nolan is requesting a sponsorship of \$999.00 to assist 100 low income parents to attend the premier screening of the documentary Education Revolution. It was moved/seconded (Cooley/Allen) and carried to approve this sponsorship request. (1 abstention)

8. Proposed Bylaw Revisions

Melissa Corral submitted the following proposed Council bylaw changes: 1) eliminate the word "consumer" and replace it with either "self-advocate" or "family advocate"; 2) add the Self-Advocates Advisory Committee; 3) add the Employment First Committee; and, 4) eliminate the indemnification since they are unnecessary in the bylaws. It was moved/seconded (Allen/Ceragioli) and carried to approve the Bylaws as amended and recommended adoption by the full Council.

9. **Joint Meeting with State Independent Living Council**

Carol Risley informed the Committee that the State Independent Living Council is interested in holding a joint meeting with SCDD. This joint meeting would touch on cross disabilities and the challenges they face.

The Committee agreed to hold a joint meeting in March 2012.

10. **Appointments Update**

Even after getting our legislators involved, Carol Risley reported that the appointment packages continue to sit in the Governor's office with little movement.

11. **Agenda for January Council Meeting**

Members discussed potential agenda items for the January Council meeting including the recommendation for the new Area Board 2 Executive Director, the change in by-laws, state plan update, committee reports, department highlights on the trigger, the 2012-13 proposed budget, Nominating Committee and election of Vice-Chairperson, and announcing the joint meeting between SCDD and the State Independent Living Council in March.

12. **Adjournment**

The meeting was adjourned at 4:00 p.m.

2011-12 EXPENDITURE REPORT

4100 State Council on Developmental Disabilities
 2011-12 Expenditure Report
 July 1, 2011 thru February 29, 2012 (8 Months or 66.67% of the Fiscal Year)
 (Whole Dollars)

	Personal Services			Operating Expenses and Equipment			Total Expenditures		
	Budgeted	Year-to-Date Expended	Percentage Expended	Budgeted	Year-to-Date Expended *	Percentage Expended	Budgeted	Year-to-Date Expended	Percentage Expended
Council Operations and Administration **	\$1,419,014	\$738,535	52.05%	\$954,327	\$780,274	81.76%	\$2,373,341	\$1,518,809	63.99%
Community Program Development Grants **	\$0	\$0	0.00%	\$1,000,000	\$997,302	99.73%	\$1,000,000	\$997,302	99.73%
Area Board 1	\$297,900	\$167,225	56.13%	\$124,192	\$82,925	66.77%	\$422,092	\$250,150	59.26%
Area Board 2	\$240,629	\$161,241	67.01%	\$53,989	\$36,936	68.41%	\$294,618	\$198,178	67.27%
Area Board 3	\$392,055	\$302,151	77.07%	\$161,721	\$111,570	68.99%	\$553,776	\$413,721	74.71%
Area Board 4	\$420,524	\$321,480	76.45%	\$126,031	\$61,209	48.57%	\$546,555	\$382,689	70.02%
Area Board 5	\$407,509	\$294,105	72.17%	\$184,706	\$108,416	58.70%	\$592,215	\$402,521	67.97%
Area Board 6	\$324,069	\$239,258	73.83%	\$126,190	\$49,873	39.52%	\$450,259	\$289,131	64.21%
Area Board 7	\$403,357	\$308,795	76.56%	\$167,216	\$74,049	44.28%	\$570,573	\$382,844	67.10%
Area Board 8	\$602,229	\$421,474	69.99%	\$246,742	\$146,539	59.39%	\$848,971	\$568,013	66.91%
Area Board 9	\$232,454	\$161,691	69.56%	\$93,500	\$45,750	48.93%	\$325,954	\$207,441	63.64%
Area Board 10	\$847,408	\$617,848	72.91%	\$438,203	\$199,333	45.49%	\$1,285,611	\$817,181	63.56%
Area Board 11	\$442,597	\$307,816	69.55%	\$139,830	\$50,268	35.95%	\$582,427	\$358,084	61.48%
Area Board 12	\$414,601	\$281,598	67.92%	\$172,600	\$69,920	40.51%	\$587,201	\$351,519	59.86%
Area Board 13	\$365,789	\$262,586	71.79%	\$207,066	\$107,626	51.98%	\$572,855	\$370,212	64.63%
Area Board Operations**	\$234,865	\$140,652	59.89%	\$370,955	\$339,031	91.39%	\$605,820	\$479,684	79.18%
Subtotal, All Area Boards	\$5,625,986	\$3,987,920	70.88%	\$2,612,941	\$1,483,447	56.77%	\$8,238,927	\$5,471,367	66.41%
Total	\$7,045,000	\$4,726,454	67.09%	\$4,567,268	\$3,261,023	71.40%	\$11,612,268	\$7,987,477	68.78%

* Expenditures may reflect a lag in postings to CalSTARS Accounting Reports.

** OE&E year-to-date expenditures include encumbrances for the full year costs of contracts.

COUNCIL AGENDA ITEM DETAIL SHEET

BILL NUMBER/ISSUE: Assembly Bill (AB) 2338 (Chesbro/Beall), developmental services: employment first policy

BILL SUMMARY: AB 2338 requires the regional center, when developing an individual program plan (IPP) for transition age youth or working age adults, to consider the Employment First Policy while not infringing upon an individual's right to make informed choices about services and supports. The Employment First Policy is identified as: "It is the policy of the state that integrated competitive employment is the priority outcome for working age individuals with developmental disabilities. This policy shall be known as the Employment First Policy." This bill also, beginning when an individual with a developmental disability is 16 years of age, requires the planning team to discuss school-to-work opportunities during IPP meetings and to inform the consumer, parents, legal guardian, or conservator about the Employment First Policy. Lastly, AB 2338 includes a provision that nothing about it should be understood to expand the entitlement to services as part of the Lanterman Act.

BACKGROUND: Last session, Chapter 231, Statutes of 2009 (AB 287) was enacted requiring the Council to create an Employment First Committee (EFC). The EFC was required to submit a report to the Legislature and Governor that identified an employment first policy and included recommendations to enhance and increase integrated employment opportunities for people with developmental disabilities. This report was submitted to the Governor and Legislature in August 2011.

The Employment First Policy, as articulated in the report, is: "It is the policy of the state that integrated competitive employment is the priority outcome for working age individuals with developmental disabilities." In order to clarify that the Employment First Policy is in no way intended to diminish any part of the IPP planning process, the following appears immediately after the policy as the first key principle underpinning the policy:

"The individual program plan (IPP) and the provision of services and supports is centered on the individual and the family. The IPP and the provision of services take into account the needs and preferences of the individual and family, where appropriate, as well as promoting community integration, independent, productive, and normal lives, and stable and healthy environments."

AB 254 (Beall) from this session sought to accomplish similar but slightly different provisions as AB 2338.

ANALYSIS/DISCUSSION: While AB 2338 is largely similar to AB 254 (which did not pass) there are substantial differences. This analysis compares and contrasts AB 254 and AB 2338.

Regarding AB 254, some erroneously believed that it removed a portion of the Lanterman Act that provides for the IPP process and the ability of one's right to make choices about one's own life. It was also understood why one might have been left with this impression based upon the ways in which changes were made to this bill. However, AB 254 made no such changes to the Lanterman Act and the Employment First Policy was designed in that bill to further the intent of the Act, be consistent with rights established under the Act, and maintain one's right to make choices in respect to the development and implementation of IPPs. **AB 2338** explicitly includes provisions that the Employment First Policy is designed to further the intent of the Lanterman Act, be consistent with rights established under the Act, and may not infringe upon an individual's right to make informed choices about services and supports.

On January 19, 2012, the Assembly Appropriations Committee reviewed AB 254. At that time, the committee's staff analysis indicated a belief that AB 254 broadens the entitlement in the Lanterman Act "...to include an entitlement that all working-age consumers receive a prevailing wage job." **AB 2338** explicitly indicates that there is no broadening of the entitlement in the Lanterman Act.

The Appropriations Committee staff analysis of AB 254 also indicated that additional costs would be incurred by the state if IPPs were required to have school-to-work plans for students 14 or over and if DDS collected data from regional centers in order to evaluate progress for the implementation of Employment First. **AB 2338** is likely to have a less costly projection because it only requires the planning team to discuss school-to-work opportunities during IPP meetings and to inform the consumer, parents, legal guardian, or conservator about the Employment First Policy. Additionally, **AB 2338** indicates DDS **may** request information from regional centers on current and planned activities related to the Employment First Policy. Because this provision is permissive and does not create a requirement, it is anticipated that this will be less costly than the provision that appeared in AB 254.

The California Disability Services Association, an organization that spoke in opposition to AB 254 at the Appropriations hearing indicated that if many individuals chose to pursue employment, additional and substantial state resources would be necessary to support this increased need. One could make a similar argument for **AB 2338**, but if there were a provision for services to be provided within existing resources, there would be no grounds for this argument.

COUNCIL STRATEGIC PLAN OBJECTIVE: The Council will take a position on proposed state and federal legislation and proposed regulations that impact people with developmental disabilities, will communicate those positions to legislators and their staff, and will disseminate this information to all interested parties.

The State of California will adopt an Employment First policy which reflects inclusive and gainful employment as the preferred outcome for working age individuals with developmental disabilities.

PRIOR COUNCIL ACTIVITY: The Council supported AB 287 (2009) and submitted the first annual Employment First report to the Governor and Legislature in August 2011. In April 2011, the Council supported AB 254. In December 2011, the Council agreed to sponsored AB 254.

LPPC RECOMMENDATION(S): LPPC will review this bill on March 15, 2012. Ray Ceragioli, LPPC Chairperson will provide a report to the Council on the LPPC's recommendation.

ATTACHMENT(S): AB 2338, AB 254 and Appropriations Committee staff analysis of AB 254, AB 2338 Legislative Alert

PREPARED: Christofer Arroyo, March 6, 2012

ASSEMBLY BILL

No. 2338

Introduced by Assembly Members Chesbro and Beall

February 24, 2012

An act to amend Sections 4646.5 and 4868 of, and to add Section 4869 to, the Welfare and Institutions Code, relating to developmental services.

LEGISLATIVE COUNSEL'S DIGEST

AB 2338, as introduced, Chesbro. Developmental services: Employment First Policy.

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

Existing law requires the State Council on Developmental Disabilities to, among other responsibilities, form a standing Employment First Committee to identify strategies and recommend legislative, regulatory, and policy changes to increase integrated employment, as defined, self-employment, and microenterprises for persons with developmental disabilities, as specified.

This bill would define competitive employment, microenterprises, and self-employment for these purposes. This bill would require each regional center planning team, when developing an individual program plan for a transition age youth or working age adult, to consider a specified Employment First Policy. The bill would also require regional centers to ensure that consumers, beginning at 16 years of age, and,

where appropriate, other specified persons, are provided with information about the Employment First Policy, about options for integrated competitive employment, and about services and supports, including postsecondary education, available to enable the consumer to transition from school to work, and to achieve the outcomes of obtaining and maintaining integrated competitive employment. The bill would authorize the department to request information from regional centers on current and planned activities related to the Employment First Policy.

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 4646.5 of the Welfare and Institutions
2 Code is amended to read:
3 4646.5. (a) The planning process for the individual program
4 plan described in Section 4646 shall include all of the following:
5 (1) Gathering information and conducting assessments to
6 determine the life goals, capabilities and strengths, preferences,
7 barriers, and concerns or problems of the person with
8 developmental disabilities. For children with developmental
9 disabilities, this process should include a review of the strengths,
10 preferences, and needs of the child and the family unit as a whole.
11 Assessments shall be conducted by qualified individuals and
12 performed in natural environments whenever possible. Information
13 shall be taken from the consumer, his or her parents and other
14 family members, his or her friends, advocates, authorized
15 representative, if applicable, providers of services and supports,
16 and other agencies. The assessment process shall reflect awareness
17 of, and sensitivity to, the lifestyle and cultural background of the
18 consumer and the family.
19 (2) A statement of goals, based on the needs, preferences, and
20 life choices of the individual with developmental disabilities, and
21 a statement of specific, time-limited objectives for implementing
22 the person’s goals and addressing his or her needs. These objectives
23 shall be stated in terms that allow measurement of progress or
24 monitoring of service delivery. These goals and objectives should
25 maximize opportunities for the consumer to develop relationships,
26 be part of community life in the areas of community participation,

1 housing, work, school, and leisure, increase control over his or her
2 life, acquire increasingly positive roles in community life, and
3 develop competencies to help accomplish these goals.

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

7 (4) *When developing an individual program plan for a transition*
8 *age youth or working age adult, the planning team shall consider*
9 *the Employment First Policy described in Chapter 14 (commencing*
10 *with Section 4868).*

11 (4)

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

23 (5)

24 (6) When agreed to by the consumer, the parents, legally
25 appointed guardian, or authorized representative of a minor
26 consumer, or the legally appointed conservator of an adult
27 consumer or the authorized representative, including those
28 appointed pursuant to subdivision (d) of Section 4548, subdivision
29 (b) of Section 4701.6, and subdivision (e) of Section 4705, a review
30 of the general health status of the adult or child including a medical,
31 dental, and mental health needs shall be conducted. This review
32 shall include a discussion of current medications, any observed
33 side effects, and the date of *the* last review of the medication.
34 Service providers shall cooperate with the planning team to provide
35 any information necessary to complete the health status review. If
36 any concerns are noted during the review, referrals shall be made
37 to regional center clinicians or to the consumer's physician, as
38 appropriate. Documentation of health status and referrals shall be
39 made in the consumer's record by the service coordinator.

40 (6)

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

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

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

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

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

20 ~~(7)~~

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

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

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

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

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

7 SEC. 2. Section 4868 of the Welfare and Institutions Code is
8 amended to read:

9 4868. (a) The State Council on Developmental Disabilities
10 shall form a standing Employment First Committee consisting of
11 the following members:

12 (1) One designee of each of the members of the state council
13 specified in subparagraphs (B), (C), (D), (F), and (H) of paragraph
14 (2) of subdivision (b) of Section 4521.

15 (2) A member of the consumer advisory committee of the state
16 council.

17 (b) In carrying out the requirements of this section, the
18 committee shall meet and consult, as appropriate, with other state
19 and local agencies and organizations, including, but not limited
20 to, the Employment Development Department, the Association of
21 Regional Center Agencies, one or more supported employment
22 provider organizations, an organized labor organization
23 representing service coordination staff, and one or more consumer
24 family member organizations.

25 (c) The responsibilities of the committee shall include, but need
26 not be limited to, all of the following:

27 (1) Identifying the respective roles and responsibilities of state
28 and local agencies in enhancing integrated and gainful employment
29 opportunities for people with developmental disabilities.

30 (2) Identifying strategies, best practices, and incentives for
31 increasing integrated employment and gainful employment
32 opportunities for people with developmental disabilities, including,
33 but not limited to, ways to improve the transition planning process
34 for students 14 years of age or older, and to develop partnerships
35 with, and increase participation by, public and private employers
36 and job developers.

37 (3) Identifying existing sources of employment data and
38 recommending goals for, and approaches to, measuring progress
39 in; increasing integrated employment and gainful employment of
40 people with developmental disabilities.

1 (4) Recommending legislative, regulatory, and policy changes
2 for increasing the number of individuals with developmental
3 disabilities in integrated employment, self-employment, and
4 microenterprises and who earn wages at or above minimum wage,
5 including, but not limited to, recommendations for improving
6 transition planning and services for students with developmental
7 disabilities who are 14 years of age or older. This shall include,
8 but shall not be limited to, the development of ~~an Employment~~
9 ~~First Policy~~ *a policy* with the intended outcome of ~~which is a~~
10 ~~significant increase in~~ *significantly increasing* the number of
11 individuals with developmental disabilities who engage in
12 integrated employment, self-employment, and microenterprises
13 and in the number of individuals who earn wages at or above
14 minimum wage. This proposed policy shall be in furtherance of
15 the intent of this division that services and supports be available
16 to enable persons with developmental disabilities to approximate
17 the pattern of everyday living available to people without
18 disabilities of the same age and that support their integration into
19 the mainstream life of the community, and that those services and
20 supports result in more independent, productive, and normal lives
21 for the persons served. The proposed ~~Employment First Policy~~
22 *policy* shall not limit service and support options otherwise
23 available to consumers, or the rights of consumers, or, where
24 appropriate, parents, legal guardians, or conservators to make
25 choices in their own lives.

26 (d) For purposes of this chapter, ~~“integrated employment” shall~~
27 ~~have the same definition as “integrated work” as defined in~~
28 ~~subdivision (o) of Section 4851.~~ *the following definitions shall*
29 *apply:*

30 (1) *“Competitive employment” means work in the competitive*
31 *labor market that is performed on a full-time or part-time basis*
32 *in an integrated setting and for which an individual is compensated*
33 *at or above the minimum wage, but not less than the customary*
34 *wage and level of benefits paid by the employer for the same or*
35 *similar work performed by individuals who are not disabled.*

36 (2) *“Integrated employment” means “integrated work” as*
37 *defined in subdivision (o) of Section 4851.*

38 (3) *“Microenterprises” means small businesses owned by*
39 *individuals with developmental disabilities who have control and*
40 *responsibility for decisionmaking and overseeing of the business,*

1 *with accompanying business licenses, taxpayer identification*
2 *numbers other than social security numbers, and separate business*
3 *bank accounts. Microenterprises may be considered integrated*
4 *competitive employment.*

5 (4) *“Self-employment” means an employment setting in which*
6 *an individual works in a chosen occupation, for profit or fee, in*
7 *his or her own small business, with control and responsibility for*
8 *decisions affecting the conduct of the business.*

9 (e) The committee, by July 1, 2011, and annually thereafter,
10 shall provide a report to the appropriate policy committees of the
11 Legislature and to the Governor describing its work and
12 recommendations. The report due by July 1, 2011, shall include
13 the proposed ~~Employment First Policy~~ *policy* described in
14 paragraph (4) of subdivision (c).

15 SEC. 3. Section 4869 is added to the Welfare and Institutions
16 Code, to read:

17 4869. (a) (1) It is the policy of the state that integrated,
18 competitive employment is the priority outcome for working age
19 individuals with developmental disabilities. This policy shall be
20 known as the Employment First Policy.

21 (2) This policy is in furtherance of the intent of this division to
22 make services and supports available to enable persons with
23 developmental disabilities to approximate the pattern of everyday
24 living available to people without disabilities of the same age, to
25 support the integration of persons with developmental disabilities
26 into the mainstream life of the community, and to bring about more
27 independent, productive, and normal lives for the persons served.

28 (3) Implementation of the policy shall be consistent with, and
29 shall not infringe upon, the rights established pursuant to this
30 division, including the right of people with developmental
31 disabilities to make informed choices with respect to services and
32 supports through the individual program planning process.

33 (4) Integrated competitive employment is intended to be the
34 first option considered by planning teams for working age
35 individuals, but individuals may choose goals other than integrated
36 competitive employment.

37 (5) This chapter shall not be construed to expand the existing
38 entitlement to services for persons with developmental services
39 described in this division.

1 (b) Regional centers shall ensure that consumers, beginning at
2 16 years of age, and, where appropriate, their parents, legal
3 guardians, or conservators, are provided with information, in a
4 language that the consumer and, as appropriate, the consumer's
5 representative understand, about the Employment First Policy,
6 about options for integrated competitive employment, and about
7 services and supports, including postsecondary education, available
8 to enable the consumer to transition from school to work, and to
9 achieve the outcomes of obtaining and maintaining integrated
10 competitive employment.

11 (c) The department may request information from regional
12 centers on current and planned activities related to the Employment
13 First Policy.

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LEGISLATIVE ALERT

ASSEMBLY BILL 2338

EMPLOYMENT OF INDIVIDUALS WITH DISABILITIES

Assembly Bill (AB) 2338, by Assemblymember Wes Chesbro, promoting employment of individuals with disabilities is scheduled for a hearing on:

DATE: April 10, 2012

PLACE: Assembly Human Service Committee
Room 437
State Capitol
Sacramento, CA

TIME: 1:30 pm

AB 2338 was introduced on February 24, 2012 to:

- Require regional centers consider the Employment First policy when developing an individual program (IPP) with a transition age youth or working age adults;
- Define “competitive employment, integrated employment, microenterprises, and self-employment”;
- Establish an Employment First Policy that reads: “It is the policy of the state that integrated competitive employment is the priority outcome for working age individuals with developmental disabilities”;
- Clarify that implementation of this policy is consistent with the rights established under the Lanterman Act, including the right to make informed choices, and does not expand the existing entitlement to services for persons with developmental disabilities;

- Require regional centers **inform** consumers, families and others about the Employment First policy, options for integrated competitive employment and services and supports, including postsecondary education, that are available to enable consumers to transition from school to work and to achieve the outcomes of obtaining and maintaining integrated competitive employment if they so **choose**; and
- **Allow** the Department of Developmental Services (DDS) to request information from regional centers on current and planned activities related to the Employment First policy.

This bill **does not** take any current services and supports away from individuals with developmental disabilities **or force anyone to work if they choose not to**. It does say that work is an outcome, as it is for most Californians with or without disabilities, and makes sure that individuals who want to work will get the information they need to pursue this outcome.

This is your chance to share your opinion on employment of individuals with disabilities with the Legislature by contacting members and staff of the Assembly Human Services Committee before April 10, 2012 with your comments/position on AB 2338. Members and staff are:

Member	Address	Telephone	Fax	Email
Assemblymember Jim Beall, Chairperson	State Capitol Room 5016 Sacramento, CA 95814	916-319-2024	916-319-2124	assemblymember.beall@assembly.ca.gov
Assemblymember Brian Jones	State Capitol Room 3147 Sacramento, CA 95814	916-319-2077	916-319-2177	assemblymember.jones@assembly.ca.gov
Assemblymember Tom Ammiano	State Capitol Room 4005 Sacramento, CA 95814	916-319-2013	916-319-2113	assemblymember.ammiano@assembly.ca.gov
Assemblymember Shannon Grove	State Capitol Room 3098 Sacramento, CA 95814	916-319-2032	916-319-2132	assemblymember.grove@assembly.ca.gov

Assemblymember Isadore Hall	State Capitol Room 3123 Sacramento, CA 95814	916-319-2052	916-319-2152	assemblymember.hall@assembly.ca.gov
Assemblymember Anthony Portantino	State Capitol Room 2003 Sacramento, CA 95814	916-319-2044	916-319-2144	assemblymember.portantino@assembly.ca.gov
Assemblymember Wes Chesbro (author)	State Capitol Room 2141 Sacramento, CA 95814	916-319-2001	916-319-2101	assemblymember.chesbro@assembly.ca.gov
Eric Gelber Committee Consultant	1020 N St, #124 Sacramento, CA 95814	916-319-2089	916-319-2189	Eric.Gelber@asm.ca.gov
Robert Layne Senior Consultant Assemblymember Chesbro	State Capitol Room 2141 Sacramento, CA 95814	916-319-2001	916-319-2101	Robert.Layne@asm.ca.gov

State Council on Developmental Disabilities
February 28, 2012
916-322-8481

BILL ANALYSIS

AB 254
Page 1

Date of Hearing: January 19, 2012

ASSEMBLY COMMITTEE ON APPROPRIATIONS
Felipe Fuentes, Chair

AB 254 (Beall) - As Amended: January 4, 2012

Policy Committee: Human
ServicesVote:4 - 2

Urgency: No State Mandated Local Program:
No Reimbursable:

SUMMARY

This bill requires Regional Centers (RCs), under the jurisdiction of the California Department of Developmental Services (DDS), to use an employment first policy defined in the bill for Individual Program Planning (IPP) for consumers 14 years and older. Specifically, this bill:

- 1)States that it is the policy of the state that integrated, competitive employment is the priority outcome for working-age individuals with developmental disabilities.
- 2)Requires RCs be guided by the employment first policy when developing individual program plans for transition-age youth and working-age adults.
- 3)Requires RCs to ensure that, beginning at age 14, consumers and their parents or legal guardians be provided with the employment first policy, options for integrated employment, and services and supports that enable consumers to transition from school to work.

FISCAL EFFECT

- 1)Unknown costs, potentially in excess of a few hundred thousand dollars, for DDS to include school-to-work plans in IPPs for consumers between the ages of 14 and 16 years old. Under current, law local educational agencies are responsible for developing that portion of the IPP, in conjunction with RCs, for school-age consumers who are 16 and older.
- 2)Unknown, potentially significant costs, to the extent this

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Page 2

bill broadens the entitlement contained in the Lanterman Developmental Disabilities Services Act (Lanterman Act) to include an entitlement that all working-age consumers receive a prevailing wage job. This could cause significant increases in supportive and supplemental employment programs and job training programs, particularly during periods of high unemployment. These costs could be partially offset by shifting consumers from other day programs to

employment-related programs and if more consumers become employed in non-subsidized jobs.

- 3) Unknown costs, likely in excess of \$100,000, should DDS decide to revise their data collection to include data on the number of consumers with prevailing wage jobs, ethnicity, and level of disability. DDS does not currently collect this information.

COMMENTS

1) Rationale . The purpose of this bill is to help further the goals of the Lanterman Act, which requires that services and support be available for people with developmental disabilities that allows them to approximate a pattern of everyday life that is available to people without disabilities. The author argues that competitive employment for working-age adults is a key component of everyday life.

2) California's Developmental Services System annually assists approximately 250,000 individuals with developmental disabilities and their families through a statewide system of 21 regional centers. Of the \$4.7 billion (\$2.7 billion GF) proposed for the 2012-13 budget year, \$4 billion (\$2.3 billion GF) is for services provided through the regional centers. The system employs 90,000 workers. Almost 99% of consumers receive community-based services and live with their parents or other relatives, in their own homes or apartments, or in group homes designed to meet their medical and behavioral needs.

In addition, the state's four Developmental Centers (Fairview, Lanterman, Porterville, and Sonoma) and one smaller, community facility (Canyon Springs) provide 24-hour care to about 1,700 individuals with developmental disabilities. The DCs provide a

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Page 3

full range of care, including medical and recreational services.

3) Special Education and Employment Services . Under the federal Individuals with Disabilities Education Act, every special education student is entitled to an IEP, which is reviewed periodically between school district officials and a student's parents. This bill will increase the participation of both the RCs and schools in IEPs for DDS consumers.

DDS consumers work in a variety of settings. Those requiring supported employment settings may participate in the Habilitation Services Program which consists of the Work Activity Program (WEP) and Supported Employment Program (SEP). The WEP services are reimbursed at a daily per capita rate and provide a sheltered work environment. Consumers participating in SEP work in the community with support services provided by community rehabilitation programs.

4) Related Legislation .

- a) AB 287 (Beall; Chapter 231, Statutes of 2009) established the Employment First Committee as a standing

committee of the State Council on Developmental Disabilities to identify strategies and best practices for significantly increasing the numbers of people with developmental disabilities in competitive integrated employment and the number who earn wages at or above minimum wage.

- b) AB 2424 (Beall), 2008 would have established an employment first policy. Unlike this bill, AB 2424 also made significant changes to the IPP process and imposed responsibilities on regional centers and DDS related to the development of materials, the provision of information, and the conduct of IPP meetings. AB 2424 also addressed non-employment-related integrated activities. AB 2424 was held in the Senate Appropriations Committee.

Analysis Prepared by : Julie Salley-Gray / APPR. / (916)
319-2081

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AMENDED IN ASSEMBLY JANUARY 4, 2012

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 254

Introduced by Assembly Member Beall

February 3, 2011

An act to amend ~~Section~~ *Sections 4646.5 and 4868* of, and to add Section 4869 to, the Welfare and Institutions Code, relating to developmental services.

LEGISLATIVE COUNSEL'S DIGEST

AB 254, as amended, Beall. Developmental services: Employment First Policy.

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

Existing law requires the State Council on Developmental Disabilities to, *among other responsibilities*, form a standing Employment First Committee to identify strategies and recommend legislative, regulatory, and policy changes to increase integrated employment, *as defined*, for persons with developmental disabilities, as specified.

This bill would revise the definition of integrated employment to include supported employment, microenterprises, and self-employment, as defined.

This bill would require the regional center, when developing an individual program plan for a transition age youth or working age adult, to be guided by the Employment First Policy. The bill also, beginning

when a consumer is 14 years of age, would require the planning team to discuss school-to-work opportunities during individual program plan meetings and to inform the consumer, parent, legal guardian, or conservator that the regional center is available, upon request, to participate in the consumer’s individualized education plan meetings to discuss *and coordinate* transition planning *with the school district*. The bill would require the planning team, as part of the individual program plan process for working age adults, to address integrated employment opportunities, while respecting the consumer’s right to choose.

The bill would also require regional centers to ensure that consumers, beginning at 14 years of age, and, where appropriate, other specified persons, are provided with information about the Employment First Policy, about options for integrated competitive employment, and about services and supports, including postsecondary education, available to enable the consumer to transition from school to work, and to achieve the outcomes of obtaining and maintaining integrated competitive employment.

The bill would authorize the department to request information from regional centers on current and planned activities related to the Employment First Policy, including data on the numbers of consumers engaged in integrated competitive employment.

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 4646.5 of the Welfare and Institutions
- 2 Code is amended to read:
- 3 4646.5. (a) The planning process for the individual program
- 4 plan described in Section 4646 shall include all of the following:
- 5 (1) Gathering information and conducting assessments to
- 6 determine the life goals, capabilities and strengths, preferences,
- 7 barriers, and concerns or problems of the person with
- 8 developmental disabilities. For children with developmental
- 9 disabilities, this process should include a review of the strengths,
- 10 preferences, and needs of the child and the family unit as a whole.
- 11 Assessments shall be conducted by qualified individuals and
- 12 performed in natural environments whenever possible. Information
- 13 shall be taken from the consumer, his or her parents and other

1 family members, his or her friends, advocates, providers of services
2 and supports, and other agencies. The assessment process shall
3 reflect awareness of, and sensitivity to, the lifestyle and cultural
4 background of the consumer and the family.

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

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

19 (4) *When developing an individual program plan for a transition*
20 *age youth or working age adult, the regional center shall be guided*
21 *by the Employment First Policy described in Chapter 14*
22 *(commencing with Section 4868). Beginning when a consumer is*
23 *14 years of age, the planning team shall discuss school-to-work*
24 *opportunities during individual program plan meetings, and the*
25 *regional center representative shall inform the consumer, parent,*
26 *legal guardian, or conservator that the regional center is available,*
27 *upon request, to participate in the consumer's individualized*
28 *education plan meetings to discuss and coordinate transition*
29 *planning with the school district.*

30 ~~(4)~~

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

1 actions necessary to begin services and supports, including generic
2 services.

3 ~~(5)~~

4 (6) When agreed to by the consumer, the parents or legally
5 appointed guardian of a minor consumer, or the legally appointed
6 conservator of an adult consumer or the authorized representative,
7 including those appointed pursuant to subdivision (d) of Section
8 4548 and subdivision (e) of Section 4705, a review of the general
9 health status of the adult or child including a medical, dental, and
10 mental health needs shall be conducted. This review shall include
11 a discussion of current medications, any observed side effects, and
12 the date of last review of the medication. Service providers shall
13 cooperate with the planning team to provide any information
14 necessary to complete the health status review. If any concerns
15 are noted during the review, referrals shall be made to regional
16 center clinicians or to the consumer's physician, as appropriate.
17 Documentation of health status and referrals shall be made in the
18 consumer's record by the service coordinator.

19 ~~(6)~~

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

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

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

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

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

39 ~~(7)~~

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

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

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

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

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

27 ~~SECTION 1. Section 4646.5 of the Welfare and Institutions~~
28 ~~Code is amended to read:~~

29 ~~4646.5. (a) The planning process for the individual program~~
30 ~~plan described in Section 4646 shall include all of the following:~~

31 ~~(1) Gathering information and conducting assessments to~~
32 ~~determine the life goals, capabilities and strengths, preferences,~~
33 ~~barriers, and concerns or problems of the person with~~
34 ~~developmental disabilities. For children with developmental~~
35 ~~disabilities, this process should include a review of the strengths,~~
36 ~~preferences, and needs of the child and the family unit as a whole.~~
37 ~~Assessments shall be conducted by qualified individuals and~~
38 ~~performed in natural environments whenever possible. Information~~
39 ~~shall be taken from the consumer, his or her parents and other~~
40 ~~family members, his or her friends, advocates, providers of services~~

1 and supports, and other agencies. The assessment process shall
2 reflect awareness of, and sensitivity to, the lifestyle and cultural
3 background of the consumer and the family.

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

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

18 (4) ~~When developing an individual program plan for a transition~~
19 ~~age youth or working age adult, the regional center shall be guided~~
20 ~~by the Employment First Policy described in Chapter 14~~
21 ~~(commencing with Section 4868). Beginning when a consumer is~~
22 ~~14 years of age, the planning team shall discuss school-to-work~~
23 ~~opportunities during individual program plan meetings, and the~~
24 ~~regional center representative shall inform the consumer, parent,~~
25 ~~legal guardian, or conservator that the regional center is available,~~
26 ~~upon request, to participate in the consumer's individualized~~
27 ~~education plan meetings to discuss transition planning.~~

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

38 (6) ~~When agreed to by the consumer, the parents or legally~~
39 ~~appointed guardian of a minor consumer, or the legally appointed~~
40 ~~conservator of an adult consumer or the authorized representative,~~

1 including those appointed pursuant to subdivision (d) of Section
2 4548 and subdivision (e) of Section 4705, a review of the general
3 health status of the adult or child including a medical, dental, and
4 mental health needs shall be conducted. This review shall include
5 a discussion of current medications, any observed side effects, and
6 the date of last review of the medication. Service providers shall
7 cooperate with the planning team to provide any information
8 necessary to complete the health status review. If any concerns
9 are noted during the review, referrals shall be made to regional
10 center clinicians or to the consumer's physician, as appropriate.
11 Documentation of health status and referrals shall be made in the
12 consumer's record by the service coordinator.

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

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

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

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

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

39 *SEC. 2. Section 4868 of the Welfare and Institutions Code is*
40 *amended to read:*

1 4868. (a) The State Council on Developmental Disabilities
 2 shall form a standing Employment First Committee consisting of
 3 the following members:

4 (1) One designee of each of the members of the state council
 5 specified in subparagraphs (B), (C), (D), (F), and (H) of paragraph
 6 (2) of subdivision (b) of Section 4521.

7 (2) A member of the consumer advisory committee of the state
 8 council.

9 (b) In carrying out the requirements of this section, the
 10 committee shall meet and consult, as appropriate, with other state
 11 and local agencies and organizations, including, but not limited
 12 to, the Employment Development Department, the Association of
 13 Regional Center Agencies, one or more supported employment
 14 provider organizations, an organized labor organization
 15 representing service coordination staff, and one or more consumer
 16 family member organizations.

17 (c) The responsibilities of the committee shall include, but need
 18 not be limited to, all of the following:

19 (1) Identifying the respective roles and responsibilities of state
 20 and local agencies in enhancing integrated and gainful employment
 21 opportunities for people with developmental disabilities.

22 (2) Identifying strategies, best practices, and incentives for
 23 increasing integrated employment and gainful employment
 24 opportunities for people with developmental disabilities, including,
 25 but not limited to, ways to improve the transition planning process
 26 for students 14 years of age or older, and to develop partnerships
 27 with, and increase participation by, public and private employers
 28 and job developers.

29 (3) Identifying existing sources of employment data and
 30 recommending goals for, and approaches to measuring progress
 31 in, increasing integrated employment and gainful employment of
 32 people with developmental disabilities.

33 (4) Recommending legislative, regulatory, and policy changes
 34 for increasing the number of individuals with developmental
 35 disabilities in integrated employment, ~~self-employment, and~~
 36 ~~microenterprises~~, and who earn wages at or above minimum wage,
 37 including, but not limited to, recommendations for improving
 38 transition planning and services for students with developmental
 39 disabilities who are 14 years of age or older. This shall include,
 40 but shall not be limited to, the development of ~~an Employment~~

1 ~~First Policy~~, a policy with the intended outcome of ~~which is a~~
2 ~~significant increase in~~ significantly increasing the number of
3 individuals with developmental disabilities who engage in
4 integrated employment, ~~self-employment, and microenterprises,~~
5 and in the number of individuals who earn wages at or above
6 minimum wage. This proposed policy shall be in furtherance of
7 the intent of this division that services and supports be available
8 to enable persons with developmental disabilities to approximate
9 the pattern of everyday living available to people without
10 disabilities of the same age and that support their integration into
11 the mainstream life of the community, and that those services and
12 supports result in more independent, productive, and normal lives
13 for the persons served. The proposed ~~Employment First Policy~~
14 ~~policy~~ shall not limit service and support options otherwise
15 available to consumers, or the rights of consumers, or, where
16 appropriate, parents, legal guardians, or conservators to make
17 choices in their own lives.

18 (d) For purposes of this chapter, ~~“integrated the following~~
19 ~~definitions shall apply:~~

20 (1) “Competitive employment” means work in the competitive
21 labor market that is performed on a full-time or part-time basis
22 in an integrated setting and for which an individual is compensated
23 at or above the minimum wage, but not less than the customary
24 wage and level of benefits paid by the employer for the same or
25 similar work performed by individuals who are not disabled.

26 (2) “Integrated employment” ~~shall have the same definition as~~
27 means “integrated work” as defined in subdivision (o) of Section
28 4851, *microenterprises, self-employment, and supported*
29 *employment, as defined in subdivision (n) of Section 4851.*

30 (3) “Microenterprises” means small businesses owned by
31 individuals with developmental disabilities who have control and
32 responsibility for decisionmaking and overseeing of the business,
33 with accompanying business licenses, taxpayer identification
34 numbers other than social security numbers, and separate business
35 bank accounts. Microenterprises may be considered integrated
36 competitive employment.

37 (4) “Self-employment” means an employment setting in which
38 an individual works in a chosen occupation, for profit or fee, in
39 his or her own small business, with control and responsibility for
40 decisions affecting the conduct of the business.

1 (e) The committee, by July 1, 2011, and annually thereafter,
 2 shall provide a report to the appropriate policy committees of the
 3 Legislature and to the Governor describing its work and
 4 recommendations. The report due by July 1, 2011, shall include
 5 the proposed ~~Employment First Policy~~ *policy* described in
 6 paragraph (4) of subdivision (c).

7 ~~SEC. 2.~~

8 *SEC. 3.* Section 4869 is added to the Welfare and Institutions
 9 Code, to read:

10 ~~4869. In furtherance of the Employment First Policy established~~
 11 ~~pursuant to this chapter, the individual program plan process for~~
 12 ~~working age adults shall address integrated employment~~
 13 ~~opportunities, while respecting the consumer's right to choose.~~

14 *4869. (a) (1) It is the policy of the state that integrated,*
 15 *competitive employment is the priority outcome for working age*
 16 *individuals with developmental disabilities. This policy shall be*
 17 *known as the Employment First Policy.*

18 *(2) This policy is in furtherance of the intent of this division to*
 19 *make services and supports available to enable persons with*
 20 *developmental disabilities to approximate the pattern of everyday*
 21 *living available to people without disabilities of the same age, to*
 22 *support the integration of persons with developmental disabilities*
 23 *into the mainstream life of the community, and to bring about more*
 24 *independent, productive, and normal lives for the persons served.*

25 *(3) Implementation of the policy shall be consistent with the*
 26 *rights established pursuant to this division, including the right of*
 27 *people with developmental disabilities to make informed choices*
 28 *with respect to individual program planning and implementation.*

29 *(4) Integrated competitive employment is intended to be the first*
 30 *option considered for working age individuals, but individuals*
 31 *may choose goals other than integrated competitive employment.*

32 *(b) Regional centers shall ensure that consumers, beginning at*
 33 *14 years of age, and, where appropriate, their parents, legal*
 34 *guardians, or conservators, are provided with information, in a*
 35 *language that the consumer and, as appropriate, the consumer's*
 36 *representative understand, about the Employment First Policy,*
 37 *about options for integrated competitive employment, and about*
 38 *services and supports, including postsecondary education,*
 39 *available to enable the consumer to transition from school to work,*

1 *and to achieve the outcomes of obtaining and maintaining*
2 *integrated competitive employment.*

3 *(c) The department may request information from regional*
4 *centers on current and planned activities related to the Employment*
5 *First Policy, including data on the numbers of consumers engaged*
6 *in integrated competitive employment.*

7 *(d) As appropriate, the department shall post information on*
8 *its Internet Web site pertaining to the Employment First Policy,*
9 *including technical assistance and training materials, best*
10 *practices, resources, and regional center-specific data, by gender,*
11 *race, and type and severity of disability, on progress made in*
12 *increasing the number of consumers in integrated employment,*
13 *and the number of consumers earning wages at or above minimum*
14 *wage.*

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COUNCIL AGENDA ITEM DETAIL SHEET

BILL NUMBER/ISSUE: AB 171- Beall – Pervasive Developmental Disorder and autism health coverage

BILL SUMMARY: This bill would require health care plans to provide coverage for the screening, diagnosis and treatment (other than behavioral health) of a pervasive developmental disorder or autism; however, no benefits are required to be provided that exceed the essential health benefits that will be required under specified federal law. Furthermore, the bill would prohibit health care plans from denying, terminating or refusing to renew coverage solely because the individual is diagnosed with or has received treatment for pervasive developmental disorder or autism.

BACKGROUND: According to the author, this bill is intended to confirm existing law and close perceived loopholes that health plans and insurers exploit to deny essential treatment to individuals with PDD/A. The author maintains that, by explicitly listing medically necessary health care services that must be covered for PDD/A, this bill confirms the coverage in the existing mental health parity law and basic health care service requirements and will significantly reduce the need for the DMHC and CDI to overturn continually erroneous coverage denials by plans and insurers. The author points out that requiring health plans and health insurers to cover screening, diagnosis, and treatment of PDD/A and to develop and maintain networks of qualified PDD/A service providers will force them to bear their fair share of the responsibility for providing essential and comprehensive treatment to the families in California impacted by these conditions.

The author adds that this bill is intended to complete the end of insurance discrimination against individuals with PDD/A that was started in 2011 with the enactment of Chapter 650, Statutes of 2011 (SB 946), which dealt with behavioral health treatment by addressing screening diagnosis and the remaining essential medical treatments for PDD/A, such as speech, physical and occupational therapy, which are routinely denied despite clear coverage requirements in existing law.

In 2011, the Legislature passed and the Governor signed SB 946 requiring health plans and health insurers to provide coverage for behavioral health treatment for PDD/A from July 1, 2012, through July 1, 2014, in a manner that is consistent with existing state mental health parity law. Current state law requires mental health parity benefits to include outpatient services, inpatient hospital services, partial hospital services, and prescription drugs, if the health plan contract includes coverage for prescription drugs.

ANALYSIS/DISCUSSION: If this bill became law, many individuals with pervasive developmental disabilities would: 1) be eligible for private insurance coverage, 2) be better served by their current insurance coverage and, 3) may receive more provider options.

One area of concern is the bill's distinction between "pervasive developmental disorder" and "autism." It can be argued that the bill could be strengthened by eliminating that distinction and simply including "pervasive developmental disorders" since that would include all autism spectrum disorders, Rhett's syndrome and other disorders without singling out autism.

COUNCIL STRATEGIC PLAN OBJECTIVE: Goal #10- Individuals with developmental disabilities understand their options regarding health services and have access to a full range of coordinated health, dental and mental health services in their community.

PRIOR COUNCIL ACTIVITY: The Council currently has a support position on the bill; however, it has been amended significantly from its initial form. The LPP Committee took action on February 16, 2012, to recommend to the Council a support position with a recommendation for technical changes that would change the definitions to conform to the current DSM.

LPPC RECOMMENDATION: Support AB 171 with amendments to conform definitions to the current DSM.

ATTACHMENT: AB 171 and DSM IV definition of autism (being amended in the proposed DSM V)

PREPARED: Melissa C. Corral – February 22, 2012

AMENDED IN ASSEMBLY JANUARY 23, 2012

AMENDED IN ASSEMBLY MAY 3, 2011

AMENDED IN ASSEMBLY APRIL 6, 2011

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 171

Introduced by Assembly Member Beall

(Coauthors: Assembly Members Ammiano, Blumenfield, Brownley, Carter, Chesbro, Eng, Huffman, Mitchell, Swanson, Wieckowski, Williams, and Yamada)

January 20, 2011

An act to add Section ~~1374.73~~ 1374.745 to the Health and Safety Code, and to add Section ~~10144.51~~ 10144.53 to the Insurance Code, relating to health care coverage.

LEGISLATIVE COUNSEL'S DIGEST

AB 171, as amended, Beall. ~~Autism spectrum disorder. Pervasive developmental disorder or autism.~~

(1) Existing law provides for licensing and regulation of health care service plans by the Department of Managed Health Care. A willful violation of these provisions is a crime. Existing law provides for ~~licensing and~~ the regulation of health insurers by the Insurance Commissioner. Existing law requires health care service plan contracts and health insurance policies to provide ~~benefits for specified conditions, including certain mental health conditions.~~ coverage for the diagnosis and treatment of severe mental illnesses, including pervasive developmental disorder or autism, under the same terms and conditions applied to other medical conditions, as specified. Commencing July 1, 2012, and until July 1, 2014, existing law requires health care service

plan contracts and health insurance policies to provide coverage for behavioral health treatment, as defined, for pervasive developmental disorder or autism.

This bill would require health care service plan contracts and health insurance policies to provide coverage for the screening, diagnosis, and treatment, *other than behavioral health treatment*, of ~~autism spectrum disorders~~ *pervasive developmental disorder or autism*. The bill would, however, provide that no benefits are required to be provided by a health benefit plan offered through the California Health Benefit Exchange ~~that exceed the essential health benefits required that exceed the essential health benefits that will be required~~ under specified federal law. The bill would prohibit coverage from being denied for specified reasons *health care service plans and health insurers from denying, terminating, or refusing to renew coverage solely because the individual is diagnosed with or has received treatment for pervasive developmental disorder or autism*. Because the bill would change the definition of a crime with respect to health care service plans, it would thereby impose a state-mandated local program.

(2) 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.

This bill would provide that no reimbursement is required by this act for a specified reason.

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

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

- 1 SECTION 1. Section ~~1374.73~~ 1374.745 is added to the Health
- 2 and Safety Code, to read:
- 3 ~~1374.73:~~
- 4 1374.745. (a) Every health care service plan contract issued,
- 5 amended, or renewed on or after January 1, ~~2012~~ 2013, that
- 6 provides hospital, medical, or surgical coverage shall provide
- 7 coverage for the screening, diagnosis, and treatment of ~~autism~~
- 8 ~~spectrum disorders:~~ *pervasive developmental disorder or autism*.
- 9 (b) A health care service plan shall not terminate coverage, or
- 10 refuse to deliver, execute, issue, amend, adjust, or renew coverage,
- 11 to an enrollee solely because the individual is diagnosed with, or

1 has received treatment for, ~~an autism spectrum disorder~~ *pervasive*
2 *developmental disorder or autism.*

3 (c) Coverage required to be provided under this section shall
4 extend to all medically necessary services and shall not be subject
5 to any limits regarding age, number of visits, or dollar amounts.
6 Coverage required to be provided under this section shall not be
7 subject to provisions relating to lifetime maximums, deductibles,
8 copayments, or coinsurance or other terms and conditions that are
9 less favorable to an enrollee than lifetime maximums, deductibles,
10 copayments, or coinsurance or other terms and conditions that
11 apply to physical illness generally under the plan contract.

12 (d) Coverage required to be provided under this section is a
13 health care service and a covered health care benefit for purposes
14 of this chapter. Coverage shall not be denied *on the basis of the*
15 *location of delivery of the treatment or on the basis that the*
16 *treatment is habilitative, nonrestorative, educational, academic, or*
17 *custodial in nature.*

18 (e) A health care service plan may request, no more than once
19 annually, a review of treatment provided to an enrollee for ~~autism~~
20 ~~spectrum disorders~~ *pervasive developmental disorder or autism.*
21 The cost of obtaining the review shall be borne by the plan. This
22 subdivision does not apply to inpatient services.

23 (f) A health care service plan shall establish and maintain an
24 adequate network of ~~qualified autism~~ service providers with
25 appropriate training and experience in ~~autism spectrum disorders~~
26 *pervasive developmental disorder or autism* to ensure that enrollees
27 have a choice of providers, and have timely access, continuity of
28 care, and ready referral to all services required to be provided by
29 this section consistent with Sections 1367 and 1367.03 and the
30 regulations adopted pursuant thereto.

31 (g) (1) This section shall not be construed as reducing any
32 obligation to provide services to an enrollee under an individualized
33 family service plan, an individualized program plan, a prevention
34 program plan, an individualized education program, or an
35 individualized service plan.

36 (2) This section shall not be construed as limiting *or excluding*
37 *benefits that are otherwise available to an enrollee under a health*
38 *care service plan. plan, including, but not limited to, benefits that*
39 *are required to be covered pursuant to Sections 1374.72 and*
40 *1374.73.*

1 (3) This section shall not be construed to mean that the services
2 required to be covered pursuant to this section are not required
3 to be covered under other provisions of this chapter.

4 (3)
5 (4) This section shall not be construed as affecting litigation
6 that is pending on January 1, 2012.

7 (h) ~~On and after January 1, 2014, to the extent that this section
8 requires health benefits to be provided that exceed the essential
9 health benefits required to be provided under Section 1302(b) of
10 the federal Patient Protection and Affordable Care Act (Public
11 Law 111-148), as amended by the federal Health Care and
12 Education Reconciliation Act of 2010 (Public Law 111-152) by
13 qualified health plans offering those benefits in the California
14 Health Benefit Exchange pursuant to Title 22 (commencing with
15 Section 100500) of the Government Code, the specific benefits
16 that exceed the federally required essential health benefits are not
17 required to be provided when offered by a health care service plan
18 contract through the Exchange. However, those specific benefits
19 are required to be provided if offered by a health care service plan
20 contract outside of the Exchange.~~

21 (h) *Notwithstanding subdivision (a), on and after January 1,
22 2014, this section does not require any benefits to be provided that
23 exceed the essential health benefits that all health plans will be
24 required by federal regulations to provide under Section 1302(b)
25 of the federal Patient Protection and Affordable Care Act (Public
26 Law 111-148), as amended by the federal Health Care and
27 Education Reconciliation Act of 2010 (Public Law 111-152).*

28 (i) As used in this section, the following terms shall have the
29 following meanings:

30 (1) ~~“Autism spectrum disorder” means a neurobiological
31 condition that includes autistic disorder, Asperger’s disorder, Rett’s
32 disorder, childhood disintegrative disorder, and pervasive
33 developmental disorder not otherwise specified.~~

34 (2) ~~“Behavioral health treatment” means professional services
35 and treatment programs, including behavioral intervention therapy,
36 applied behavioral analysis, and other intensive behavioral
37 programs, that have demonstrated efficacy to develop, maintain,
38 or restore, to the maximum extent practicable, the functioning or
39 quality of life of an individual and that have been demonstrated~~

1 to treat the core symptoms associated with autism spectrum
2 disorder.

3 (3) ~~“Behavioral intervention therapy” means the design,~~
4 ~~implementation, and evaluation of environmental modifications,~~
5 ~~using behavioral stimuli and consequences, to produce socially~~
6 ~~significant improvement in behaviors, including the use of direct~~
7 ~~observation, measurement, and functional analyses of the~~
8 ~~relationship between environment and behavior.~~

9 (4)

10 (1) ~~“Diagnosis of autism spectrum disorders”~~ *pervasive*
11 *developmental disorder or autism*” means medically necessary
12 assessment, evaluations, or tests to diagnose whether an individual
13 has one of the autism spectrum disorders *pervasive developmental*
14 *disorder or autism*.

15 (5) ~~“Evidence-based research” means research that applies~~
16 ~~rigorous, systematic, and objective procedures to obtain valid~~
17 ~~knowledge relevant to autism spectrum disorders.~~

18 (2) ~~“Pervasive developmental disorder or autism” shall have~~
19 ~~the same meaning and interpretation as used in Section 1374.72.~~

20 (6)

21 (3) ~~“Pharmacy care” means medications prescribed by a licensed~~
22 ~~physician and surgeon or other appropriately licensed or certified~~
23 ~~provider and any health-related services deemed medically~~
24 ~~necessary to determine the need or effectiveness of the medications.~~

25 (7)

26 (4) ~~“Psychiatric care” means direct or consultative psychiatric~~
27 ~~services provided by a psychiatrist or any other appropriately~~
28 ~~licensed or certified provider~~ *licensed in the state in which he or*
29 *she practices*.

30 (8)

31 (5) ~~“Psychological care” means direct or consultative~~
32 ~~psychological services provided by a psychologist or any other~~
33 ~~appropriately licensed or certified provider~~ *licensed in the state in*
34 *which he or she practices*.

35 (9) ~~“Qualified autism service provider” shall include any~~
36 ~~nationally or state licensed or certified person, entity, or group that~~
37 ~~designs, supervises, or provides treatment of autism spectrum~~
38 ~~disorders and the unlicensed personnel supervised by the licensed~~
39 ~~or certified person, entity, or group, provided the services are~~
40 ~~within the experience and scope of practice of the licensed or~~

1 certified person, entity, or group. “Qualified autism service
 2 provider” shall also include any service provider that is vendorized
 3 by a regional center to provide those same services for autism
 4 spectrum disorders under Division 4.5 (commencing with Section
 5 4500) of the Welfare and Institutions Code or Title 14
 6 (commencing with Section 95000) of the Government Code and
 7 the unlicensed personnel supervised by that provider, or a State
 8 Department of Education nonpublic, nonsectarian agency as
 9 defined in Section 56035 of the Education Code approved to
 10 provide those same services for autism spectrum disorders and the
 11 unlicensed personnel supervised by that agency. A qualified autism
 12 service provider shall ensure criminal background screening and
 13 fingerprinting, and adequate training and supervision of all
 14 personnel utilized to implement services. Any national license or
 15 certification recognized by this section shall be accredited by the
 16 National Commission for Certifying Agencies (NCCA).

17 ~~(10)~~

18 (6) “Therapeutic care” means services provided by a licensed
 19 or certified speech therapists *therapist, an occupational therapists*
 20 *therapist, or a physical therapists or any other appropriately*
 21 *licensed or certified provider. therapist.*

22 ~~(11)~~

23 (7) “Treatment for autism spectrum disorders” *pervasive*
 24 *developmental disorder or autism”* means all of the following
 25 care, including necessary equipment, *that develops, maintains, or*
 26 *restores to the maximum extent practicable the functioning or*
 27 *quality of life of an individual with pervasive developmental*
 28 *disorder or autism and is prescribed or ordered for an individual*
 29 *diagnosed with one of the autism spectrum disorders pervasive*
 30 *developmental disorder or autism* by a licensed physician and
 31 surgeon or a licensed psychologist or any other appropriately
 32 ~~licensed or certified provider~~ who determines the care to be
 33 medically necessary:

34 ~~(A) Behavioral health treatment.~~

35 ~~(B)~~

36 (A) Pharmacy care, *if the plan contract includes coverage for*
 37 *prescription drugs.*

38 ~~(C)~~

39 (B) Psychiatric care.

40 ~~(D)~~

1 (C) Psychological care.

2 ~~(E)~~

3 (D) Therapeutic care.

4 ~~(F) Any care for individuals with autism spectrum disorders~~
5 ~~that is demonstrated, based upon best practices or evidence-based~~
6 ~~research, to be medically necessary.~~

7 (8) *“Treatment for pervasive developmental disorder or autism”*
8 *does not include behavioral health treatment, as defined in Section*
9 *1374.73.*

10 (j) This section, with the exception of subdivision (b), shall not
11 apply to dental-only or vision-only health care service plan
12 contracts.

13 SEC. 2. Section ~~10144.51~~ 10144.53 is added to the Insurance
14 Code, to read:

15 ~~10144.51.~~

16 10144.53. (a) Every health insurance policy issued, amended,
17 or renewed on or after January 1, ~~2012,~~ 2013, that provides
18 hospital, medical, or surgical coverage shall provide coverage for
19 the screening, diagnosis, and treatment of ~~autism spectrum~~
20 ~~disorders~~ *pervasive developmental disorder or autism.*

21 (b) A health insurer shall not terminate coverage, or refuse to
22 deliver, execute, issue, amend, adjust, or renew coverage, to an
23 insured solely because the individual is diagnosed with, or has
24 received treatment for, ~~an autism spectrum disorder~~ *pervasive*
25 *developmental disorder or autism.*

26 (c) Coverage required to be provided under this section shall
27 extend to all medically necessary services and shall not be subject
28 to any limits regarding age, number of visits, or dollar amounts.
29 Coverage required to be provided under this section shall not be
30 subject to provisions relating to lifetime maximums, deductibles,
31 copayments, or coinsurance or other terms and conditions that are
32 less favorable to an insured than lifetime maximums, deductibles,
33 copayments, or coinsurance or other terms and conditions that
34 apply to physical illness generally under the policy.

35 (d) Coverage required to be provided under this section is a
36 health care service and a covered health care benefit for purposes
37 of this part. Coverage shall not be denied *on the basis of the*
38 *location of delivery of the treatment or on the basis that the*
39 *treatment is habilitative, nonrestorative, educational, academic, or*
40 *custodial in nature.*

1 (e) A health insurer may request, no more than once annually,
 2 a review of treatment provided to an insured for ~~autism spectrum~~
 3 ~~disorders~~ *pervasive developmental disorder or autism*. The cost
 4 of obtaining the review shall be borne by the insurer. This
 5 subdivision does not apply to inpatient services.

6 (f) A health insurer shall establish and maintain an adequate
 7 network of ~~qualified autism~~ service providers with appropriate
 8 training and experience in ~~autism spectrum disorders~~ *pervasive*
 9 *developmental disorder or autism* to ensure that insureds have a
 10 choice of providers, and have timely access, continuity of care,
 11 and ready referral to all services required to be provided by this
 12 section consistent with Sections 10133.5 and 10133.55 and the
 13 regulations adopted pursuant thereto.

14 (g) (1) This section shall not be construed as reducing any
 15 obligation to provide services to an insured under an individualized
 16 family service plan, an individualized program plan, a prevention
 17 program plan, an individualized education program, or an
 18 individualized service plan.

19 (2) This section shall not be construed as limiting *or excluding*
 20 benefits that are otherwise available to an enrollee under a health
 21 insurance policy, *including, but not limited to, benefits that are*
 22 *required to be covered under Sections 10144.5 and 10144.51.*

23 (3) *This section shall not be construed to mean that the services*
 24 *required to be covered pursuant to this section are not required*
 25 *to be covered under other provisions of this chapter.*

26 ~~(3)~~

27 (4) This section shall not be construed as affecting litigation
 28 that is pending on January 1, 2012.

29 ~~(h) On and after January 1, 2014, to the extent that this section~~
 30 ~~requires health benefits to be provided that exceed the essential~~
 31 ~~health benefits required to be provided under Section 1302(b) of~~
 32 ~~the federal Patient Protection and Affordable Care Act (Public~~
 33 ~~Law 111-148), as amended by the federal Health Care and~~
 34 ~~Education Reconciliation Act of 2010 (Public Law 111-152) by~~
 35 ~~qualified health plans offering those benefits in the California~~
 36 ~~Health Benefit Exchange pursuant to Title 22 (commencing with~~
 37 ~~Section 100500) of the Government Code, the specific benefits~~
 38 ~~that exceed the federally required essential health benefits are not~~
 39 ~~required to be provided when offered by a health insurance policy~~
 40 ~~through the Exchange. However, those specific benefits are~~

1 ~~required to be provided if offered by a health insurance policy~~
2 ~~outside of the Exchange.~~

3 *(h) Notwithstanding subdivision (a), on and after January 1,*
4 *2014, this section does not require any benefits to be provided that*
5 *exceed the essential health benefits that all health plans will be*
6 *required by federal regulations to provide under Section 1302(b)*
7 *of the federal Patient Protection and Affordable Care Act (Public*
8 *Law 111-148), as amended by the federal Health Care and*
9 *Education Reconciliation Act of 2010 (Public Law 111-152).*

10 (i) As used in this section, the following terms shall have the
11 following meanings:

12 (1) ~~“Autism spectrum disorder” means a neurobiological~~
13 ~~condition that includes autistic disorder, Asperger’s disorder, Rett’s~~
14 ~~disorder, childhood disintegrative disorder, and pervasive~~
15 ~~developmental disorder not otherwise specified.~~

16 (2) ~~“Behavioral health treatment” means professional services~~
17 ~~and treatment programs, including behavioral intervention therapy,~~
18 ~~applied behavioral analysis, and other intensive behavioral~~
19 ~~programs, that have demonstrated efficacy to develop, maintain,~~
20 ~~or restore, to the maximum extent practicable, the functioning or~~
21 ~~quality of life of an individual and that have been demonstrated~~
22 ~~to treat the core symptoms associated with autism spectrum~~
23 ~~disorder.~~

24 (3) ~~“Behavioral intervention therapy” means the design,~~
25 ~~implementation, and evaluation of environmental modifications,~~
26 ~~using behavioral stimuli and consequences, to produce socially~~
27 ~~significant improvement in behaviors, including the use of direct~~
28 ~~observation, measurement, and functional analyses of the~~
29 ~~relationship between environment and behavior.~~

30 (4)
31 (1) ~~“Diagnosis of autism spectrum disorders”~~ *pervasive*
32 *developmental disorder or autism”* means medically necessary
33 assessment, evaluations, or tests to diagnose whether an individual
34 has one of the autism spectrum disorders *pervasive developmental*
35 *disorder or autism.*

36 (5) ~~“Evidence-based research” means research that applies~~
37 ~~rigorous, systematic, and objective procedures to obtain valid~~
38 ~~knowledge relevant to autism spectrum disorders.~~

39 (2) *“Pervasive developmental disorder or autism” shall have*
40 *the same meaning and interpretation as used in Section 1374.72.*

1 ~~(6)~~

2 (3) “Pharmacy care” means medications prescribed by a licensed
3 physician and surgeon or other appropriately licensed or certified
4 provider and any health-related services deemed medically
5 necessary to determine the need or effectiveness of the medications.

6 ~~(7)~~

7 (4) “Psychiatric care” means direct or consultative psychiatric
8 services provided by a psychiatrist ~~or any other appropriately~~
9 ~~licensed or certified provider~~ *licensed in the state in which he or*
10 *she practices.*

11 ~~(8)~~

12 (5) “Psychological care” means direct or consultative
13 psychological services provided by a psychologist ~~or any other~~
14 ~~appropriately licensed or certified provider~~ *licensed in the state in*
15 *which he or she practices.*

16 ~~(9) “Qualified autism service provider” shall include any~~
17 ~~nationally or state licensed or certified person, entity, or group that~~
18 ~~designs, supervises, or provides treatment of autism spectrum~~
19 ~~disorders and the unlicensed personnel supervised by the licensed~~
20 ~~or certified person, entity, or group, provided the services are~~
21 ~~within the experience and scope of practice of the licensed or~~
22 ~~certified person, entity, or group. “Qualified autism service~~
23 ~~provider” shall also include any service provider that is vendorized~~
24 ~~by a regional center to provide those same services for autism~~
25 ~~spectrum disorders under Division 4.5 (commencing with Section~~
26 ~~4500) of the Welfare and Institutions Code or Title 14~~
27 ~~(commencing with Section 95000) of the Government Code and~~
28 ~~the unlicensed personnel supervised by that provider, or a State~~
29 ~~Department of Education nonpublic, nonsectarian agency as~~
30 ~~defined in Section 56035 of the Education Code approved to~~
31 ~~provide those same services for autism spectrum disorders and the~~
32 ~~unlicensed personnel supervised by that agency. A qualified autism~~
33 ~~service provider shall ensure criminal background screening and~~
34 ~~fingerprinting, and adequate training and supervision of all~~
35 ~~personnel utilized to implement services. Any national license or~~
36 ~~certification recognized by this section shall be accredited by the~~
37 ~~National Commission for Certifying Agencies (NCCA).~~

38 ~~(10)~~

39 (6) “Therapeutic care” means services provided by *a* licensed
40 or certified speech ~~therapists~~ *therapist, an occupational therapists*

1 ~~therapist, or a physical therapists or any other appropriately~~
2 ~~licensed or certified provider therapist.~~

3 ~~(H)~~

4 (7) ~~“Treatment for autism spectrum disorders”~~ *pervasive*
5 *developmental disorder or autism*” means all of the following
6 care, including necessary equipment, *that develops, maintains, or*
7 *restores to the maximum extent practicable the functioning or*
8 *quality of life of an individual with pervasive developmental*
9 *disorder or autism and is prescribed or ordered for an individual*
10 *diagnosed with one of the autism spectrum disorders* *pervasive*
11 *developmental disorder or autism* by a licensed physician and
12 surgeon or a licensed psychologist ~~or any other appropriately~~
13 ~~licensed or certified provider~~ who determines the care to be
14 medically necessary:

15 ~~(A) Behavioral health treatment.~~

16 ~~(B)~~

17 (A) Pharmacy care, *if the policy includes coverage for*
18 *prescription drugs.*

19 ~~(C)~~

20 (B) Psychiatric care.

21 ~~(D)~~

22 (C) Psychological care.

23 ~~(E)~~

24 (D) Therapeutic care.

25 ~~(F) Any care for individuals with autism spectrum disorders~~
26 ~~that is demonstrated, based upon best practices or evidence-based~~
27 ~~research, to be medically necessary.~~

28 (8) *“Treatment for pervasive developmental disorder or autism”*
29 *does not include behavioral health treatment, as defined in Section*
30 *10144.51.*

31 (j) This section, with the exception of subdivision (b), shall not
32 apply to dental-only or vision-only health insurance policies.

33 SEC. 3. No reimbursement is required by this act pursuant to
34 Section 6 of Article XIII B of the California Constitution because
35 the only costs that may be incurred by a local agency or school
36 district will be incurred because this act creates a new crime or
37 infraction, eliminates a crime or infraction, or changes the penalty
38 for a crime or infraction, within the meaning of Section 17556 of
39 the Government Code, or changes the definition of a crime within

- 1 the meaning of Section 6 of Article XIII B of the California
- 2 Constitution.

O

Autism FAQ - Definition of Autism

The following is from the Diagnostic and Statistical Manual of Mental Disorders, Fourth Edition (DSM IV):

DIAGNOSTIC CRITERIA FOR 299.00 AUTISTIC DISORDER

A. A total of six (or more) items from (1), (2), and (3), with at least two from (1), and one each from (2) and (3)

(1) qualitative impairment in social interaction, as manifested by at least two of the following:

a) marked impairments in the use of multiple nonverbal behaviors such as eye-to-eye gaze, facial expression, body posture, and gestures to regulate social interaction

b) failure to develop peer relationships appropriate to developmental level

c) a lack of spontaneous seeking to share enjoyment, interests, or achievements with other people, (e.g., by a lack of showing, bringing, or pointing out objects of interest to other people)

d) lack of social or emotional reciprocity (note: in the description, it gives the following as examples: not actively participating in simple social play or games, preferring solitary activities, or involving others in activities only as tools or "mechanical" aids)

(2) qualitative impairments in communication as manifested by at least one of the following:

a) delay in, or total lack of, the development of spoken language (not accompanied by an attempt to compensate through alternative modes of communication such as gesture or mime)

b) in individuals with adequate speech, marked impairment in the ability to initiate or sustain a conversation with others

c) stereotyped and repetitive use of language or idiosyncratic language

d) lack of varied, spontaneous make-believe play or social imitative play appropriate to developmental level

(3) restricted repetitive and stereotyped patterns of behavior, interests and activities, as manifested by at least two of the following:

- a) encompassing preoccupation with one or more stereotyped and restricted patterns of interest that is abnormal either in intensity or focus
- b) apparently inflexible adherence to specific, nonfunctional routines or rituals
- c) stereotyped and repetitive motor mannerisms (e.g hand or finger flapping or twisting, or complex whole-body movements)
- d) persistent preoccupation with parts of objects

B. Delays or abnormal functioning in at least one of the following areas, with onset prior to age 3 years:

- (1) social interaction
- (2) language as used in social communication
- (3) symbolic or imaginative play

C. The disturbance is not better accounted for by Rett's Disorder or Childhood Disintegrative Disorder

The following definition is from the Autism Society of America:

AUTISM is a severely incapacitating lifelong developmental disability that typically appears during the first three years of life. It occurs in approximately fifteen out of every 10,000 births and is four times more common in boys than girls. It has been found throughout the world in families of all racial, ethnic and social backgrounds. No known factors in the psychological environment of a child have been shown to cause autism.

The symptoms are caused by physical disorders of the brain. They include:

1. Disturbances in the rate of appearance of physical, social and language skills.
2. Abnormal responses to sensations. Any one or a combination of senses or responses are affected: sight, hearing, touch, pain, balance, smell, taste, and the way a child holds his body.
3. Speech and language are absent or delayed while specific thinking capabilities might be present.
4. Abnormal ways of relating to people, objects and events.

AB 171 (Beall) – FACT SHEET

Health Insurance Coverage for Autism Spectrum Disorders

BACKGROUND

The California Mental Health Parity Act, section 1374.72 of the Health and Safety Code and Section 10144.5 of the Insurance Code, requires health care service plan contracts and disability insurance policies that provide coverage for hospital, medical, or surgical benefits to provide coverage for the diagnosis and medically necessary treatment of pervasive developmental disorders (“PDD”), also known as autism spectrum disorders (ASD). However children and adults with these conditions are frequently denied coverage for essential health care services, in violation of the California Mental Health Parity Act. Regulators, courts and consumers have all requested legislative clarification of this issue.

In order to secure necessary treatments, individuals with ASD are frequently required to pay privately for treatment or spend significant time and resources individually appealing health plan and insurer denials, an option that the vast majority of individuals and families do not have the time or resources to pursue. Many are forced to go without treatment entirely. Some get the state to pay for services through regional centers and school districts.

The impact of the health plan and insurer denials is to shift their financial responsibility of millions of dollars to the taxpayers. Currently many ASD-related health care services for insured Californians are being paid for by the Regional Centers, counties and school districts. Taxpayers also bear the long term social, educational and social service costs of not treating individuals with ASD when they need additional services later in life, which could have been avoided with appropriate intervention in earlier years.

THIS BILL

AB 171 would end health care discrimination against individuals with ASD by requiring health plans and insurers to cover screening, diagnosis and all medically necessary treatment for individuals with autism spectrum disorders. Further, AB 171 would save the state millions of taxpayer dollars both in the immediate and long term. Specifically AB 171 legislates the following:

- A health care plan may not terminate coverage, or refuse to deliver, execute issue, amend, adjust, or renew coverage to an enrollee solely because the individual is diagnosed with, or has received treatment for, an autism spectrum disorder.
- The bill has no cap on age, number of visits or an annual benefit dollar limit.

- The bill requires that coverage not be subject to lifetime maximums, deductibles, copayments, coinsurance, or other terms and conditions that are less favorable than those that apply to physical illness generally under the health plan.
- The bill requires the health plans and insurers to establish and maintain an adequate network of qualified autism service providers.
- Coverage of treatments will be provided when prescribed, provided, or ordered for an individual diagnosed with autism by a licensed physician or a licensed mental health provider who determines the care to be medically necessary including:
 - Diagnosis of an autism spectrum disorder - meaning medically necessary assessments, evaluations, or tests to diagnose whether an individual has one of the autism spectrum disorders.
 - Behavioral health treatment - meaning professional services and treatment programs, including behavioral intervention therapy, applied behavioral analysis (ABA), and other intensive behavioral programs, that have demonstrated efficacy to develop, maintain, or restore, to the maximum extent practicable, the functioning or quality of life of an individual and that have been demonstrated to treat the core symptoms associated with ASD.
 - Pharmacy care, psychiatric care, psychological care and therapeutic care - meaning services provided by licensed or certified speech therapists, occupational therapists, or physical therapists.
 - Any care in addition to care mentioned above, for individuals with autism spectrum disorders that is demonstrated, based upon practices or evidence-based research, to be medically necessary.

SPONSORS

Alliance of California Autism Organizations

STATUS

Introduced Assembly, referred to CHBRP for economic impact analysis

Staff Contact: Eric Gelber (916) 319-2089

COUNCIL AGENDA ITEM DETAIL SHEET

BILL NUMBER/ISSUE: Assembly Bill 1244: Developmental Services: Self-Determination

BILL SUMMARY: AB 1244 creates the Self-Determination Program within the existing developmental services system to provide individuals with a single, capitated funding allocation they may use to purchase services that support goals identified in Individual Program Plans (IPPs).

The Self-Determination Program has the potential to generate short and long-term cost savings to the state, while giving regional center clients flexibility within a capitated service budget as an alternative to the traditional service system and limitations in regional center purchase authority.

The Self-Determination Program will be designed to promote and be evaluated against core quality outcomes based on universal human aspirations:

- welfare, health and safety,
- living in a place called home,
- meaningful participation and membership in their own community,
- reciprocal long-term relationships,
- generating private income, through typical jobs in regular employment settings or through self-employment, and
- access to or control over transportation.

The Self-Determination Program makes individualized funding available to individuals with developmental disabilities who are receiving services under the Lanterman Developmental Services Act. Individual allocations are computed in a fair, transparent, and equitable manner based on their characteristics and needs. It enables consumers/families to exercise their rights and access services and supports they choose to realize their IPPs.

BACKGROUND: Existing law:

- Entitles individuals with developmental disabilities to community services and supports through the Department of Developmental Services (DDS) and requires the department to enter into contracts with private nonprofit regional centers to provide these supports.

- Creates a self-directed services program, contingent upon approval of a federal waiver, in which consumers of regional center services can opt for a set individual budget that allows them to choose from a menu of service options rather than having services coordinated through a regional center case manager. This has not been implemented.
- Establishes the individual choice budget, contingent upon certification by the director of DDS that the program would save \$35.1 million, which would provide individuals with a per-capita budget to purchase services. The individual choice budget has not been implemented.

The Self-Determination program represents an alternative model of service delivery, whereby individuals who are eligible for state developmental disabilities services are empowered to gain control over the selection of services and supports that meet their own needs. It is an alternative to the standard service model of the Lanterman Act, in which regional centers purchase services directly from approved "vendors" or obtain services from other agencies. Self-determination is intended to 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 the consumer's IPP.

ANALYSIS/DISCUSSION: The Lanterman Act has led to tremendous advancements in deinstitutionalization, community integrated services, disability rights and family support. However, the long-term national trends are moving away from congregate services toward highly individualized options which have led to demands by people with disabilities for control over their services and their lives. People seek homes of their own, where they control who comes in and who supports them. They seek real membership in their communities, participating as a valued member in community organizations and activities that they choose. They seek to develop and preserve long-term reciprocal relationships, with friends, family, neighbors, and others in their communities. People want to earn income to begin to overcome the barriers inherent to a life of deprivation. AB 1244 is an effective step toward the achievement of these goals and aspirations. And as the bill's author explained: "Self-Determination leads to those outcomes that people seek" and, "in an environment of fiscal constraint, and with more and more limits put on the availability of traditional services, Self-Determination offers an alternative to the cost pressures and increasing limits of the traditional developmental services system."

COUNCIL STRATEGIC PLAN OBJECTIVE: Goal #14- Public policy in California promotes the independence, productivity, inclusion and self determination of individuals with developmental disabilities and their families.

Objective 14a) The Council will take a position on proposed state and federal legislation and proposed regulations that impact people with developmental disabilities,

will communicate those positions to legislators and their staff, and will disseminate this information to all interested parties.

PRIOR COUNCIL ACTIVITY: The Council currently has a support position on AB 1244. LPPC continues to monitor AB 1244 for anticipated amendments and reviewed a draft set that provided additional clarity regarding the development of the individual budget allocation; however the sponsors indicate that these amendments are not yet being put forth in the bill.

LPPC RECOMMENDATION: Continue to support AB 1244 with an amendment that would allow an individual or family to **select** using either a historical expenditure or modeled costs process to establish the level of their individual budget allotment.

ATTACHMENT: AB 1244

PREPARED: Karim Alipourfard, March 7, 2012

AMENDED IN SENATE JULY 5, 2011
AMENDED IN ASSEMBLY MAY 27, 2011
AMENDED IN ASSEMBLY APRIL 14, 2011
AMENDED IN ASSEMBLY MARCH 31, 2011
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, and to add Article 4.5 (commencing with Section 4689.90) to Chapter 6 of Division 4.5 of, the Welfare and Institutions Code, relating to 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.

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

11 (c) Parental fee schedules shall be evaluated pursuant to Section
12 4784 and adjusted annually, as needed, by the department, with
13 the approval of the state council. The July 1, 2009, parental fee
14 adjustment shall be exempt from this approval requirement. Fees
15 for out-of-home care shall bear an equitable relationship to the
16 cost of the care and the ability of the family to pay.

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

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

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

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

37 Consistent with the level of need as determined in the state plan,
38 excess parental fees may be used for purposes other than programs
39 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 towards
25 toward obtaining generic services.

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

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

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

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

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

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

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

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

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

1 brokerage service is available to assist in identifying immediate
2 and long-term needs, developing options to meet those needs,
3 participating in the person-centered planning process and
4 development of the IPP, and obtaining identified services and
5 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 access to, ~~and the flexibility,~~ *increased flexibility and*
14 *choice over, and the ability* to access, a wide range of needed and
15 desired services and supports, including, but not limited to, hiring
16 their own workers and purchasing needed items. The SD Program
17 shall be consistent with 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 *Program* a timely in-depth orientation; however,

1 enrollment in the SD ~~program~~ *Program* shall not be delayed or
2 conditioned on the orientation.

3 (b) Prior to enrollment in the SD Program, and based on the
4 methodology described in this subdivision, an individual, and when
5 appropriate, his or her parents, legal guardian or conservator, or
6 authorized representative, shall be provided in writing with the
7 individual allocation amount that would be provided for developing
8 his or her individual budget to implement his or her IPP. The
9 individual, and when appropriate his parents, legal guardian or
10 conservator, or authorized representative, may then elect to
11 participate in the SD Program.

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

23 (2) The individual allocation amount shall equal 90 percent of
24 the annual per capita purchase of service costs for the previous
25 fiscal year for consumers with similar characteristics, who do not
26 receive services through the SD Program. The allocation
27 methodology shall be constructed using data available on the State
28 Department of Developmental Services' information system,
29 including, but not limited to, age, type of residence, type of
30 disability and ability, functional skills, support needs, and whether
31 the individual is in transition. Until the first full year of historical
32 data is available, the department shall adjust the allocation to
33 estimate the impact of service reductions resulting from the Budget
34 Act of 2011.

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

38 (4) Once an individual, and when appropriate his or her parents,
39 legal guardian or conservator, or authorized representative, has
40 elected to become an SD Program participant, his or her individual

1 allocation amount shall be available to the participant each year
2 for the purchase of SD Program services until a new individual
3 allocation amount has been determined. An individual allocation
4 amount shall be calculated no more than once in a 12-month period.

5 (5) A regional center's calculation of an individual allocation
6 amount may be appealed to the executive director of the regional
7 center, or his or her designee, within 30 days after receipt of the
8 allocation amount. The executive director of the regional center
9 shall issue a written decision within 10 working days. The decision
10 of the executive director may be appealed to the Director of
11 Developmental Services, or his or her designee, within 15 days of
12 receipt of the written decision. The decision of the department is
13 final.

14 (c) Once an individual, and when appropriate his parents, legal
15 guardian or conservator, or authorized representative, has elected
16 to become an SD Program participant and his or her individual
17 allocation amount has been determined, the following shall occur:

18 (1) A regional center shall advance funds to the financial
19 management services entity to support a participant's hiring of a
20 supports broker.

21 (2) The participant, and when appropriate his parents, legal
22 guardian or conservator, or authorized representative, with the
23 assistance of the service broker and other members of his or her
24 circle of support if appropriate, shall develop a person-centered
25 plan and individual budget within the amount of the individual
26 allocation. The plan and budget shall be designed to assist the
27 participant to achieve the relevant core quality outcomes specified
28 in *paragraphs (1) to (8), inclusive, of subdivision (b) of Section*
29 *4689.91.*

30 (3) The individual budget shall distribute the allocation,
31 including expenditures for services and supports, among the
32 following categories based on the core quality outcomes specified
33 in *paragraphs (1) to (8), inclusive, of subdivision (b) of Section*
34 *4689.91:*

35 (A) Welfare, health, and safety.

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

37 (C) Meaningful participation and membership in the community
38 including, but not limited to, socialization, recreational, and
39 educational opportunities.

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

1 (E) Generating income, supports for employment or
2 self-employment.

3 (F) Transportation.

4 (4) A participant may not use any portion of his or her individual
5 allocation to purchase services from a licensed long-term health
6 care facility, as defined in paragraph (44) of subdivision (a) of
7 Section 54302 of Title 17 of the California Code of Regulations,
8 or a residential facility, as defined in paragraph (55) of subdivision
9 (a) of Section 54302 of Title 17 of the California Code of
10 Regulations. A participant may not use his or her individual
11 allocation to purchase complete day program or habilitation
12 services, as defined in paragraph (16) or (34) of subdivision (a) of
13 Section 54302 of Title 17 of the California Code of Regulations,
14 respectively. However, a participant may use a portion of his or
15 her individual allocation to negotiate for specific periodic or
16 one-time services from a day program or habilitation services
17 provider. A participant may also use a portion of his or her
18 allocation to purchase job development and job coaching services
19 for individual—~~placement—supported~~ *placement-supported*
20 employment.

21 (5) Consumers currently living in 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, or receiving day program or habilitation services, as
27 defined in paragraph (16) or (34) of subdivision (a) of Section
28 54302 of Title 17 of the California Code of Regulations,
29 respectively, may request that the regional center provide
30 person-centered planning services in order to make arrangements
31 for transition to the SD Program. In that case, the regional center
32 shall initiate person-centered planning services within 30 days of
33 a request pursuant to paragraphs (1) and (2).

34 (6) The planning team, established pursuant to subdivision (j)
35 of Section 4512, shall review and utilize the person-centered plan
36 developed in paragraph (2) to develop the IPP for the participant.
37 The IPP shall detail the goals and objectives of the participant that
38 are to be met through the purchase of—~~participant—selected~~
39 *participant-selected* services and supports. The planning team shall
40 also review the individual budget to ensure the budget assists the

1 participant to achieve the *relevant core quality outcomes*, assures
2 *outcomes identified in paragraphs (1) to (8), inclusive, of*
3 *subdivision (b) of Section 4689.91, ensures* his or her health and
4 safety, and implements his or her IPP goals. The completed budget
5 shall be attached to the IPP.

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

11 (8) Annually, participants may transfer up to 20 percent of the
12 funds originally distributed to any budget category set forth in
13 paragraph (3), to another budget category or categories. Transfers
14 in excess of 20 percent of the original amount allocated to any
15 budget category may be made upon the approval of the regional
16 center. Regional centers may only deny a transfer if necessary to
17 protect the health and safety of the participant.

18 (9) Consistent with the implementation date of the IPP, the
19 regional center shall annually ascertain from the participant whether
20 there are any circumstances that require a change to the annual
21 individual allocation amount as calculated pursuant to subdivision
22 (b). Based on that review, the regional center shall calculate a new
23 budget amount based on the methodology described in subdivision
24 (b). The participant may choose the new budget amount, or
25 continue using the current amount. The IPP shall be amended to
26 reflect any changes in the allocation.

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

30 (1) The risk pool shall be funded at the equivalent of 2.5 percent
31 of the historical annual purchase of service costs for consumers
32 participating in the SD Program, as determined for consumers of
33 similar characteristics pursuant to paragraph (2) of subdivision
34 (b).

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

37 (3) The risk pool may be used only in the event of substantial
38 change in a participant's service and support needs that were not
39 known at the time the individual allocation was set including, but

1 not limited to, an urgent need to relocate a residence or to prevent
 2 or respond to significant injury or illness.

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

5 (e) The department shall allocate 7.5 percent of the historical
 6 annual purchase of service costs for consumers participating in
 7 the SD Program, as determined for consumers of similar
 8 characteristics pursuant to paragraph (2) of subdivision (b), ~~towards~~
 9 *toward* offsetting costs to the state of the SD Program with the
 10 remainder to be returned as savings to the General Fund. Program
 11 costs to the state shall include, but not be limited to, training of
 12 consumers, family members, regional centers, and service brokers,
 13 caseload ratio improvement, and service broker support for
 14 participants' initial ~~person-centered~~ *person-centered* planning and
 15 budget plan development.

16 (f) The regional center service coordinator shall assist consumers
 17 and when appropriate his or her parents, legal guardian or
 18 conservator, or authorized representative, in understanding the SD
 19 Program service option, assist participants to understand their
 20 rights, responsibilities, and opportunities under the SD Program,
 21 and provide information on locating service brokers. The regional
 22 center service coordinator shall, as required by this section,
 23 determine the SD Program participant's individual allocation
 24 amount, participate in the IPP, approve the initial individual budget
 25 and amendments to the budget, ensure plans and services are
 26 adequate to ensure the ~~participants~~ *participants'* health, welfare,
 27 and safety, address the goals of the IPP and the core quality
 28 outcomes specified in *paragraphs (1) to (8), inclusive, of*
 29 *subdivision (b) of Section 4689.91*, monitor for abuse, fraud, and
 30 exploitation, monitor the quarterly budget report for rate of
 31 expenditure and consistency with the budget plan, annually
 32 ascertain from the participant whether there are any circumstances
 33 that require a change to the annual individual allocation amount,
 34 conduct quarterly visits as required by the department, and assist
 35 the participant to access the risk pool in the event of a substantial
 36 change in a participant's service and support needs that were not
 37 known at the time the individual allocation was set. Regional
 38 centers, therefore, shall provide an average service
 39 coordinator-to-consumer ratio of 1 to 62 for all SD Program
 40 participants. To the maximum extent possible, regional centers

1 shall assign SD Program participants to service coordinators with
2 a designated SD Program caseload.

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

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

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

24 (2) An individual determined to be ineligible, or who voluntarily
25 exits the SD Program, shall be permitted to return to the SD
26 Program upon meeting all applicable eligibility criteria and after
27 a minimum of 12 months time has elapsed.

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

31 (j) Only the financial management service provider is required
32 to apply for vendorization in accordance with subchapter 2
33 (commencing with Section 54300) of Chapter 3 of Title 17 of the
34 California Code of Regulations, for the SD Program. All other
35 service providers shall have applicable state licenses, certifications,
36 or other state required documentation, but are exempt from the
37 vendorization requirements set forth in Title 17 of the California
38 Code of Regulations. The financial management services entity
39 shall ensure and document that all service providers meet specified

1 requirements for any service that may be delivered to the
2 participant.

3 (k) A participant enrolled in the SD Program pursuant to this
4 section and utilizing an individual allocation for services and
5 supports is exempt from Section 4783, the Family Cost
6 Participation Program, and cost control restrictions, including, but
7 not limited to, purchases of services pursuant to Sections 4648.35,
8 4648.5, and 4659, subparagraph (B) of paragraph (3) of subdivision
9 (c) of Section 4685, Sections 4686.2, 4686.5, and 4689, and
10 purchase of service best practices enacted pursuant to 4620.3.

11 4689.93. (a) The Legislature finds and declares that SD
12 Program support workers are the foundation necessary for SD
13 Program participants to access full community participation and
14 employment opportunities and to pursue a life of meaning in the
15 ways that they choose.

16 (b) Participants shall have the right to utilize their individual
17 allocation to employ SD support workers of their choice, hire,
18 supervise, direct, schedule, evaluate, train, and terminate
19 employment of SD support workers. Except for the limited
20 purposes set forth herein, the state shall not be deemed the
21 employer of SD support workers for any purpose.

22 (c) The state shall support the quality, availability, and stability
23 of direct support workers by establishing a base compensation
24 package to ensure decent pay standards for workers in the program.
25 Individuals may use their allocation and private sources of funds
26 to pay SD support workers above the base established by the state,
27 develop job descriptions, and otherwise organize and incentivize
28 their SD support workers.

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

33 (1) Within 10 days of receipt of a request from a labor
34 organization that represents SD support workers, the department
35 shall provide the following information concerning SD support
36 workers:

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

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

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

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

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

10 (B) If a labor organization that represents SD support workers
11 petitions the board to be designated as the negotiating
12 representative for SD support workers and provides written
13 authorization from a majority of the total number of workers in
14 the unit as of January of the year in which the petition is made,
15 the board shall designate that organization as the exclusive
16 negotiating representative for all SD support workers in the unit.

17 (C) If a labor organization that represents SD support workers
18 petitions to be designated as the negotiating representative for all
19 SD support workers in the unit and provides written authorization
20 to serve as the negotiating representative from at least 30 percent
21 of the workers in the unit, an election shall be held pursuant to
22 board policies and procedures within 90 days after the day on
23 which the petition is filed. The board shall designate the labor
24 organization that prevails in the election the exclusive negotiating
25 representative for all SD support workers in the unit.

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

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

31 (B) The designated negotiating representative shall represent
32 all SD support workers in the bargaining unit fairly and without
33 discrimination and without regard to whether the workers are
34 members of the labor organization designated as the negotiating
35 representative.

36 (C) The designated negotiating representative may charge a
37 reasonable fair share service fee to bargaining unit nonmembers,
38 who meet the minimum hour criteria described in subdivision (i)
39 of Section 4689.9, for representing them in negotiations, contract
40 administration, and other activities. The costs covered by the fair

1 share service fee pursuant to this section may include, but are not
2 limited to, costs associated with representing SD support workers
3 pursuant to paragraph (4). The fair share service fee shall not exceed
4 the annual dues paid by members of the labor organization
5 designated as the negotiating representative of SD support workers.

6 (4) The designated negotiating representative of SD support
7 workers shall negotiate with the department concerning the terms
8 and conditions of workers' participation in the SD Program
9 including all of the following:

10 (A) The base compensation package mandated by this article.

11 (B) Access to benefits for SD support workers.

12 (C) Payment procedures.

13 (D) Training and career development opportunities.

14 (E) Deduction of membership dues and fair share service fees.

15 (5) The designated negotiating representative of SD support
16 workers shall not negotiate over terms and conditions of
17 employment reserved for the participant pursuant to subdivisions
18 (b) and (c).

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

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

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

28 (1) Criminal history records checks pursuant to this subdivision
29 shall be performed and administered as described in subdivision
30 (b) and subdivisions (d) to (h), inclusive, of Section 4689.2, and
31 Sections 4689.4 to 4689.6, inclusive, and shall apply to
32 vendorization of providers and hiring of employees to provide
33 services for family home agencies and family homes.

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

36 4689.94. (a) The department shall establish a statewide
37 Self-Determination Program Advisory Committee. Greater than
38 50 percent of the committee shall be comprised of SD Program
39 participants and their family members representing the geographic,
40 ethnic, and language diversity of the state. Other committee

1 members shall include representatives from the State Council on
2 Developmental Disabilities, Disability Rights California, a
3 University Center for Excellence in Developmental Disabilities,
4 regional centers, and a labor representative of regional center
5 employees. The committee shall meet at least semiannually and
6 participate in system oversight and advise with respect to ongoing
7 system design and implementation and SD support worker wages,
8 benefits, training, and career development. In addition, the
9 committee shall meet with the department at least twice during the
10 initial development phase of the SD Program to provide input on
11 the methodology for calculating individual allocations and other
12 initial implementation issues.

13 (b) Notwithstanding Section 10231.5 of the Government Code,
14 commencing January 10, 2013, the department shall annually
15 provide the following information to the SD Program Advisory
16 Committee and to the policy and fiscal committees of the
17 Legislature:

18 (1) The number and characteristics of participants, by regional
19 center.

20 (2) The range and average of individual allocations, by regional
21 center.

22 (3) Utilization of the risk pool, including range and average
23 individual allocation augmentations and type of service, by regional
24 center.

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

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

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

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

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

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

39 (10) Identification of barriers to participation and
40 recommendations for program improvements.

1 (11) A comparison of average annual expenditures for
2 individuals with similar characteristics not participating in the SD
3 Program.

4 (c) Notwithstanding Section 10231.5 of the Government Code,
5 commencing June 30, 2015, and at three year intervals, the
6 department shall submit an SD-program *Program* evaluation to
7 the relevant policy committees of the Legislature and the SD
8 Program Advisory Committee. The evaluation shall be developed
9 in consultation with the advisory committee and shall be based on
10 the core quality outcomes described in subdivision (b) of Section
11 4689.91 and also include a summary of all of the following:

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

14 (2) Consumer satisfaction under the SD Program and, when
15 data is available, the traditional service delivery system, by regional
16 center.

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

19 (4) *The adequacy of the risk pool established pursuant to*
20 *subdivision (d) of Section 4689.92.*

21 4689.95. It is the intent of the Legislature that the purchase of
22 services and supports through the SD Program be eligible for
23 federal Medicaid match funding. The department shall take all
24 steps necessary to ensure federal financial participation is available
25 for all SD Program services and supports by applying for
26 amendments to the current ~~home~~ *home-* and community-based
27 waiver for individuals with developmental disabilities or for a new
28 waiver pursuant to Section 1396n of Title 42 of the United States
29 Code. The department shall seek to maximize federal financial
30 participation by applying for an enhanced federal match through
31 the federal Community First Choice Option pursuant to Section
32 1396n(k) of Title 42 of the United States Code.

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COUNCIL AGENDA ITEM DETAIL SHEET

Bill NUMBER/ISSUE: Assembly Bill (AB) 1553- Medi-Cal Managed Care (MCMC)

BILL SUMMARY: This bill would establish a process that would permit an eligible Medi-Cal beneficiary to receive fee-for-service (FFS) Medi-Cal, if available, as an alternative to plan enrollment if the beneficiary meets specified criteria. This process already exists via regulations; therefore this bill would place the criteria and process into law.

BACKGROUND: According to the author's office, California has adopted the national trend to use various models of managed care in place of FFS in Medi-Cal. In MCMC, as in commercial managed care, the enrollee's choice of providers may be limited to those in the plan's network, but the plan is required to ensure timely access to care. As of August 2011, MCMC in California served about 4.4 million enrollees in 30 counties, or about 60% of the total Medi-Cal population. California employs three models of managed care. In two of these models, the Two-Plan and Geographic Managed Care, FFS Medi-Cal is also still available. Fourteen counties are part of the Two-Plan model. In most two-plan model counties, there is a "local initiative" (LI) and a "commercial plan" (CP). The Two-Plan model serves about three million beneficiaries in 14 counties: Alameda, Contra Costa, Fresno, Kern, Kings, Los Angeles, Madera, Riverside, San Bernardino, San Francisco, San Joaquin, Santa Clara, Stanislaus, and Tulare. Two-counties employ the GMC model: Sacramento and San Diego serving about 450,000 beneficiaries. In a GMC county, the Department of Health Care Services (DHCS) contracts with several commercial plans. The third model is a County Organized Health Plan (COHS) and everyone is in the same plan and there is no FFS alternative. COHS serve about 885,000 beneficiaries through six health plans in 14 counties: Marin, Mendocino, Merced, Monterey, Napa, Orange, San Mateo, San Luis Obispo, Santa Barbara, Santa Cruz, Solano, Sonoma, Ventura, and Yolo

Children, families and pregnant women have been required to enroll in MCMC since the 1990s. On November 2, 2010, the federal Secretary of Health and Human Services approved a new five year "Bridge to Reform" Section 1115 Medicaid Demonstration Waiver for California which makes up to \$10 billion in federal matching funds available over a five-year period. The new waiver continued much of the hospital funding from a 2005 waiver and included three significant new initiatives that are considered to be a model for transition to health reform in 2014. One of the initiatives in the 2010 waiver is the mandatory enrollment of seniors and people with disabilities (SPDs) into managed care plans. The savings from managed care enrollment is intended to offset the cost of the other initiatives. Implementation began

on June 1, 2011 and is being implemented in all Two-Plan and GMC counties over a 12-month period.

Medical Exemption Request (MER). Existing regulations provide that a person who is receiving Medi-Cal FFS treatment or services for a complex medical condition from a physician, a certified nurse midwife, or a licensed midwife who is participating in the Medi-Cal program but does not contract with one of the plans available through mandatory enrollment may request a medical exemption to continue FFS Medi-Cal for the purposes of continuity of care up to 12 months or until the medical condition has stabilized to a level that would enable the individual to change physicians without deleterious medical effects. A form is included with the enrollment packet and must be filled out by the physician and submitted to the enrollment contractor. A MER is an option for a limited number of conditions, such as cancer, HIV, or dialysis. The original mandatory population was a relatively healthy population of parents and children. When mandatory enrollment was extended to SPDs, including children, it was agreed that a more expansive continuity of care should also be available for this population which was more likely to have chronic conditions and an existing relationship with a Medi-Cal FFS provider. However, the number of MERs also increased and the interaction with the new continuity of care provisions has led to some confusion. As a result, DHCS is in the process of clarifying the MERS policy and process and is circulating a draft Provider Bulletin. According to this draft, a patient receiving maintenance care or being seen for routine follow-up of their complex medical conditions will not be granted an exemption from plan enrollment. In addition, as dictated by the current regulations, a MER will not be granted if the person had been in the plan more than 90 days, has a current provider who is in the plan network or has begun or was scheduled to begin treatment after the date of enrollment.

The Assembly and Senate Health Committees held an informational hearing in December 2011 on the implementation of mandatory enrollment of the SPD population. At that hearing, various stakeholders reported that the standards for obtaining a MER were being applied in an inconsistent fashion and that the regulations were vague and subject to varying interpretations. Furthermore, there was widespread ignorance and misunderstanding of the actual policy. In view of the testimony at the hearing, there is a need for legislation to clarify the policy and make it more widely known.

ANALYSIS/DISCUSSION: This issue will soon impact even more people who have dual eligibility for Medicare and Medi-Cal as California implements the Duals Demonstration Project over the next year. As reflected in the attached letter from DHCS, all duals in the demonstration counties will be passively enrolled into managed care with a process that allows them to “opt-out”. It is expected that process will be the same or similar to the current MER process for SPDs, although it is not yet clear what

the opt out criteria will encompass, thus it is likely there will be a need for additional legislation in the future that addresses that population.

COUNCIL STRATEGIC PLAN OBJECTIVE: Goal #10-Individuals with developmental disabilities understand their options regarding health services and have access to a full range of coordinated health, dental and mental health services in their community.

PRIOR COUNCIL ACTIVITY: Council staff has been actively involved in meetings and activities related to the transition to managed care for SPDs and duals, consistently raising concerns about the ability for consumers to control who provides their care. A preferred approach is an “opt-in” rather than an “opt-out” process, however that has been rejected by DHCS because an opt-out process “is most likely to achieve the enrollment levels needed to make these new organized delivery systems successful” and save the State money.

LPPC RECOMMENDATION: Support AB 1553

ATTACHMENT(S): AB 1553, AB 1553 Fact Sheet

PREPARED: Carol Risley March 7, 2012

ASSEMBLY BILL

No. 1553

Introduced by Assembly Member Monning

January 26, 2012

An act to add Section 14103.9 to the Welfare and Institutions Code, relating to Medi-Cal.

LEGISLATIVE COUNSEL'S DIGEST

AB 1553, as introduced, Monning. Medi-Cal: managed care: exemption from plan enrollment.

Existing law provides for the Medi-Cal program, which is administered by the State Department of Health Care Services, under which qualified low-income individuals receive health care services. The Medi-Cal program is, in part, governed and funded by federal Medicaid Program provisions. One of the methods by which these services are provided is pursuant to contracts with various types of managed care plans.

This bill would establish a process that would permit an eligible Medi-Cal beneficiary to receive fee-for-service Medi-Cal, if available, as an alternative to plan enrollment if the beneficiary meets specified criteria.

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 14103.9 is added to the Welfare and
- 2 Institutions Code, to read:

1 14103.9. (a) An eligible Medi-Cal beneficiary who satisfies
2 the requirements in paragraph (1) or (2) may request fee-for-service
3 Medi-Cal, if available, as an alternative to plan enrollment by
4 submitting a request for exemption from plan enrollment to the
5 Health Care Options Program as specified in subdivision (c).

6 (1) The eligible beneficiary is an American Indian, a member
7 of an American Indian household, or chooses to receive health
8 care services through an Indian Health Service facility and has
9 written acceptance from an Indian Health Service facility for care
10 on a fee-for-service basis.

11 (2) An eligible beneficiary who is receiving fee-for-service
12 Medi-Cal treatment or services for a complex medical condition,
13 from a physician, a certified nurse midwife, or a licensed midwife
14 who is participating in the Medi-Cal program but is not a
15 contracting provider of either plan in the eligible beneficiary's
16 county of residence, may request a medical exemption to continue
17 fee-for-service Medi-Cal for purposes of continuity of care.

18 (A) For purposes of this section, conditions meeting the criteria
19 for a complex medical condition include, and are similar to, the
20 following:

21 (i) An eligible beneficiary is pregnant.

22 (ii) An eligible beneficiary is under evaluation for the need for
23 an organ transplant, has been approved for and is awaiting an organ
24 transplant, or has received a transplant and is currently either
25 immediately postoperative or exhibiting significant medical
26 problems related to the transplant. Beneficiaries who are medically
27 stable on posttransplant therapy are not eligible for exemption
28 under this section.

29 (iii) An eligible beneficiary is receiving chronic renal dialysis
30 treatment.

31 (iv) An eligible beneficiary has tested positive for human
32 immunodeficiency virus (HIV) or has received a diagnosis of
33 acquired immune deficiency syndrome (AIDS).

34 (v) An eligible beneficiary has been diagnosed with cancer and
35 is currently receiving chemotherapy or radiation therapy or another
36 course of accepted therapy for cancer that will continue for up to
37 12 months or has been approved for the therapy.

38 (vi) An eligible beneficiary has been approved for a major
39 surgical procedure by the Medi-Cal fee-for-service program and
40 is awaiting surgery or is immediately postoperative.

1 (vii) An eligible beneficiary has a complex neurological
2 disorder, such as multiple sclerosis, a complex hematological
3 disorder, such as hemophilia or a sickle cell disease, or a complex
4 or progressive disorder not covered in clauses (i) through (vi),
5 inclusive, such as cardiomyopathy or amyotrophic lateral sclerosis,
6 which requires ongoing medical supervision, or has been approved
7 for or is receiving complex medical treatment for the disorder, the
8 administration of which cannot be interrupted.

9 (viii) An eligible beneficiary is enrolled in a Medi-Cal waiver
10 program that allows the individual to receive subacute, acute,
11 intermediate, or skilled nursing care at home rather than in a
12 subacute care facility, an acute care hospital, an intermediate care
13 facility, or a skilled nursing facility.

14 (ix) An eligible beneficiary is participating in a pilot project
15 organized and operated pursuant to Section 14087.3, 14094.3, or
16 14490.

17 (B) A request for exemption from plan enrollment based on
18 complex medical conditions shall not be approved for an eligible
19 beneficiary to whom any of the following apply:

20 (i) He or she has been a member of any plan on a combined
21 basis for more than 90 calendar days.

22 (ii) He or she has a current Medi-Cal provider who is contracting
23 with a plan.

24 (iii) He or she is begun or has scheduled to begin treatment after
25 the date of plan enrollment.

26 (b) Except for pregnancy, an eligible beneficiary granted a
27 medical exemption from plan enrollment shall remain with the
28 fee-for-service provider only until the medical condition has
29 stabilized to a level that would enable him or her to change
30 physicians and begin receiving care from a plan provider without
31 deleterious medical effects, as determined by the beneficiary's
32 treating physician in the Medi-Cal fee-for-service program. A
33 beneficiary granted a medical exemption due to pregnancy may
34 remain with the fee-for-service Medi-Cal provider through delivery
35 and the end of the month in which 90 days postpartum occurs.

36 (c) Exemption from plan enrollment due to a complex medical
37 condition, as specified in clauses (i) to (vii), inclusive, and clause
38 (ix) of subparagraph (A) of paragraph (2) of subdivision (a), shall
39 be requested on a request for medical exemption from plan
40 enrollment form approved by the department. Exemption from

1 plan enrollment due to a beneficiary's enrollment in a Medi-Cal
2 waiver program, as specified in clause (viii) of subparagraph (A)
3 of paragraph (2) of subdivision (a), or a beneficiary's acceptance
4 for care at an Indian Health Service facility, as specified in
5 paragraph (1) of subdivision (a), shall be requested on a request
6 for non-medical exemption from plan enrollment form. The
7 completed request for exemption shall be submitted to the Health
8 Care Options Program by the Medi-Cal fee-for-service provider
9 or the Indian Health Service facility treating the beneficiary and
10 shall be submitted by mail or facsimile. A request for exemption
11 from plan enrollment shall not be submitted by the plan.

12 (d) The Health Care Options Program, as authorized by the
13 department, shall approve each request for exemption from plan
14 enrollment that meets the requirements of this section. At any time,
15 the department may, at its discretion, verify the complexity,
16 validity, and status of the medical condition and treatment plan
17 and verify that the provider is not contracted or otherwise affiliated
18 with a plan. The Health Care Options Program, as authorized by
19 the department, or the department may deny a request for
20 exemption from plan enrollment or revoke an approved request
21 for exemption if a provider fails to fully cooperate with verification
22 by the department.

23 (e) Approval of requests for exemption from plan enrollment
24 shall be subject to the same processing times and effective dates
25 for the processing of enrollment and disenrollment requests.

26 (f) The Health Care Options Program, as authorized by the
27 department, or the department may revoke an approved request
28 for exemption from plan enrollment at any time if the department
29 determines that the approval was based on false or misleading
30 information, the medical condition was not complex, treatment
31 has been completed, or the requesting provider is not or has not
32 been providing services to the beneficiary. The department shall
33 provide written notice to the beneficiary that the approved request
34 for exemption from plan enrollment has been revoked and shall
35 advise the beneficiary that he or she shall enroll in a Medi-Cal
36 plan and how that enrollment shall occur. The revocation of an
37 approved request for exemption from plan enrollment shall not

- 1 otherwise affect an eligible beneficiary's eligibility or ability to
- 2 receive covered services as a plan member.

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ASSEMBLYMEMBER WILLIAM MONNING

State Capitol Room 6005, Sacramento, CA 95814, (916) 319-2027, Fax (916) 319-2127

FACT SHEET

Assembly Bill 1553 (Monning)-Medical Exemption from Medi-Cal Managed Care

Summary: AB 1553 codifies existing regulations, developed by the Department of Health Care Services (DHCS), specifying the circumstances and process for a Medi-Cal enrollee to be exempted from mandatory enrollment in a Medi-Cal managed care plan.

Existing Law: The Medicaid program (Medi-Cal in California) provides health care coverage to low-income families, seniors, long-term care residents, pregnant women and people with disabilities. It is a joint federal and state program. Each state has discretion to structure benefits, eligibility, service delivery, and payment rates under requirements established by federal law. Medi-Cal currently covers nearly 7 million Californians. Of this 7 million, approximately 3.5 million in sixteen counties are required to choose a Medi-Cal managed care (MCMC) plan. If they do not choose they are enrolled by default into one of the plans in the county. This population includes families, children, pregnant women, seniors and people with disabilities (SPDs). DHCS has established, by regulation, policies and procedures for certain enrollees to be exempt from mandatory managed care and to be able to disenroll into fee for service (FFS) Medi-Cal. However, there are no statutory standards or authority.

Background: California has adopted the national trend to use various models of managed care in place of FFS in Medi-Cal. In MCMC, as in commercial managed care, the enrollee's choice of providers may be limited to those in the plan's network, but the plan is required to ensure timely access to care. As of August 2011, MCMC in California served about 4.4 million enrollees in 30 counties, or about 60% of the total Medi-Cal population. California employs three models of managed care. In two of these models, the Two-Plan and Geographic Managed Care, FFS Medi-Cal is also still available. Fourteen counties are part of the Two-Plan model. In most two-plan model counties, there is a "Local Initiative" (LI) and a "commercial plan" (CP). The Two-Plan model serves about three million beneficiaries in 14 counties: Alameda, Contra Costa, Fresno, Kern, Kings, Los Angeles, Madera, Riverside, San Bernardino, San Francisco, San Joaquin, Santa Clara, Stanislaus, and Tulare. Two-counties employ the GMC model: Sacramento and San Diego serving about 450,000 beneficiaries. In a GMC county, DHCS contracts with several commercial plans. The third model is a County Organized Health Plan (COHS) and everyone is in the same plan and there is no FFS alternative. COHS serve about 885,000 beneficiaries through six health plans in 14 counties: Marin, Mendocino, Merced, Monterey, Napa, Orange, San Mateo, San Luis Obispo, Santa Barbara, Santa Cruz, Solano, Sonoma, Ventura, and Yolo

Children, families and pregnant women have been required to enroll in MCMC since the 1990s. On November 2, 2010, the federal Secretary of Health and Human Services approved a new five year "Bridge to Reform" Section 1115 Medicaid Demonstration Waiver for California which makes up to \$10 billion in federal matching funds available over a five-year period. The new waiver continued much of the hospital funding from a 2005 waiver and included three significant new initiatives that are considered to be a model for transition to health reform in 2014. One of the initiatives in the 2010 waiver is the mandatory enrollment of SPDs into managed care plans. The savings from managed care enrollment is intended to offset the cost of the other initiatives. Implementation began on June 1, 2011 and is being implemented in all Two-Plan and GMC counties over a 12-month period.

FACT SHEET
Assembly Bill 1553 (Monning)
Medical Exemption from Medi-Cal Managed Care

(continued)

Medical Exemption Request (MER). Existing regulations provide that a person who is receiving Medi-Cal FFS treatment or services for a complex medical condition from a physician, a certified nurse midwife, or a licensed midwife who is participating in the Medi-Cal program but does not contract with one of the plans available through mandatory enrollment may request a medical exemption to continue FFS Medi-Cal for the purposes of continuity of care up to 12 months or until the medical condition has stabilized to a level that would enable the individual to change physicians without deleterious medical effects. A form is included with the enrollment packet and must be filled out by the physician and submitted to the enrollment contractor. A MER is an option for a limited number of conditions, such as cancer, HIV, or dialysis. The original mandatory population was a relatively healthy population of parents and children. When mandatory enrollment was extended to SPDs, including children, it was agreed that a more expansive continuity of care should also be available for this population which was more likely to have chronic conditions and an existing relationship with a Medi-Cal FFS provider. However, the number of MERs also increased and the interaction with the new continuity of care provisions has led to some confusion. As a result, DHCS is in the process of clarifying the MERS policy and process and is circulating a draft Provider Bulletin. According to this draft, a patient receiving maintenance care or being seen for routine follow-up of their complex medical conditions will not be granted an exemption from plan enrollment. In addition, as dictated by the current regulations, a MER will not be granted if the person had been in the plan more than 90 days, has a current provider who is in the plan network or has begun or was scheduled to begin treatment after the date of enrollment.

Need for the Legislation: The Assembly and Senate Health Committees held an informational hearing in December 2011 on the implementation of mandatory enrollment of the SPD population. At that hearing, various stakeholders reported that the standards for obtaining a MER were being applied in an inconsistent fashion and that the regulations were vague and subject to varying interpretations. Furthermore, there was widespread ignorance and misunderstanding of the actual policy. In view of the testimony at the hearing, there is a need for legislation to clarify the policy and make it more widely known.

Contact: Marjorie Swartz, Assembly Health Committee
03/07/2012

(916) 319-2097

COUNCIL AGENDA ITEM DETAIL SHEET

BILL NUMBER/ISSUE: Assembly Bill (AB) 1554, Developmental services: regional centers.

BILL SUMMARY: Current law requires regional centers to post information on their websites to make information public and transparent. This bill requires additional information to be posted – the rates paid to vendors (except families and individuals with developmental disabilities) and how much money the regional center has paid to a nonprofit housing organization outside the request for proposals (RFP) process.

BACKGROUND: Bills have recently passed with the stated goal to increase transparency about how regional centers operate. This bill furthers this goal.

Many regional centers have identified housing as a problem which nonprofit housing organizations are well suited to address. Some regional centers have started up nonprofit housing organizations to address the housing needs of individuals with developmental disabilities within their catchment area. In some few cases, irregularities have been identified in how regional centers provided funding to them.

ANALYSIS/DISCUSSION: If regional centers are required to post the actual rates paid to vendors, families and individuals who receive regional center funded services will have information that may help them make more informed choices about which vendors provide services to them and which may be within their reach. It will be publicly known which vendors provide the least expensive services, which is a requirement under the 2009 changes to the Lanterman Act. However, with more than 80,000 vendors, some with set rates while others with negotiated rates, it is questionable, in this time of needing to focus on services to individuals, if this information would be reliable, timely and what impact it would have on centers' abilities to negotiate rates designed to meet consumers and families needs.

Posting information about funds provided outside of public RFP process would shed greater light on the use of public funds.

COUNCIL STRATEGIC PLAN OBJECTIVE: The Council will take a position on proposed state and federal legislation and proposed regulations that impact people with developmental disabilities, will communicate those positions to legislators and their staff, and will disseminate this information to all interested parties.

PRIOR COUNCIL ACTIVITY: The Council has previously supported similar bills, such as AB 862 and SB 382.

LPPC RECOMMENDATION: Support AB 1554 if amended to remove the requirement to post vendor rates because of the potential for lack of reliability and workload impact that may take away from services and supports to consumers and families.

ATTACHMENT: AB 1554

PREPARED: Christofer Arroyo, March 6, 2012

ASSEMBLY BILL

No. 1554

Introduced by Assembly Members Jeffries and Silva

January 26, 2012

An act to amend Section 4629.5 of the Welfare and Institutions Code, relating to developmental services.

LEGISLATIVE COUNSEL'S DIGEST

AB 1554, as introduced, Jeffries. Developmental services: regional centers.

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. Existing law requires a regional center to include specified information on its Internet Web site for the purpose of promoting transparency and access to public information that includes specified information.

This bill would add prescribed information to this requirement.

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 4629.5 of the Welfare and Institutions
- 2 Code is amended to read:
- 3 4629.5. (a) In addition to the requirements set forth in Section
- 4 4629, the department's contract with a regional center shall require
- 5 the regional center to adopt, maintain, and post on its Internet Web
- 6 site a board-approved policy regarding transparency and access to

1 public information. The transparency and public information policy
 2 shall provide for timely public access to information, including,
 3 but not limited to, information regarding requests for proposals
 4 and contract awards, service provider rates, documentation related
 5 to establishment of negotiated rates, audits, and IRS Form 990.
 6 The transparency and public information policy shall be in
 7 compliance with applicable law relating to the confidentiality of
 8 consumer service information and records, including, but not
 9 limited to, Section 4514.

10 (b) To promote transparency, each regional center shall include
 11 on its Internet Web site, as expeditiously as possible, at least all
 12 of the following:

- 13 (1) Regional center annual independent audits.
- 14 (2) Biannual fiscal audits conducted by the department.
- 15 (3) Regional center annual reports pursuant to Section 4639.5.
- 16 (4) Contract awards, including the organization or entity
 17 awarded the contract, and the amount and purpose of the award.
- 18 (5) *The actual rates paid to each vendor, updated annually,*
 19 *except consumers or family members of consumers.*
- 20 (6) *Any regional center purchase of services or operations funds*
 21 *provided to a nonprofit housing organization outside the request*
 22 *for proposals process.*
- 23 ~~(5)~~
- 24 (7) Purchase of service policies.
- 25 ~~(6)~~
- 26 (8) The names, types of service, and *business* contact
 27 information of all vendors, except consumers or family members
 28 of consumers.
- 29 ~~(7)~~
- 30 (9) Board meeting agendas and approved minutes of open
 31 meetings of the board and all committees of the board.
- 32 ~~(8)~~
- 33 (10) Bylaws of the regional center governing board.
- 34 ~~(9)~~
- 35 (11) The annual performance contract and ~~year-end~~ *yearend*
 36 performance contract entered into with the department pursuant
 37 to this division.
- 38 ~~(10)~~

1 (12) The biannual Home and Community-based Services Waiver
2 program ~~review~~ *reviews* conducted by the department and the State
3 Department of Health Care Services.

4 ~~(11)~~

5 (13) The board-approved transparency and public information
6 policy.

7 ~~(12)~~

8 (14) The board-approved conflict-of-interest policy.

9 ~~(13)~~

10 (15) Reports required pursuant to Section 4639.5.

11 (c) The department shall establish and maintain a transparency
12 portal on its Internet Web site that allows consumers, families,
13 advocates, and others to access provider and regional center
14 information. Posted information on the department's Internet Web
15 site transparency portal shall include, but need not be limited to,
16 all of the following:

17 (1) A link to each regional center's Internet Web site information
18 referenced in subdivision (b).

19 (2) Biannual fiscal audits conducted by the department.

20 (3) Vendor audits.

21 (4) Biannual Home and Community-based Services Waiver
22 program reviews conducted by the department and the State
23 Department of Health Care Services.

24 (5) Biannual targeted case management program and federal
25 nursing home reform program reviews conducted by the
26 department.

27 (6) Early Start ~~Program~~ *program* reviews conducted by the
28 department.

29 (7) Annual performance contract and ~~year-end~~ *yearend*
30 performance contract reports.

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COUNCIL AGENDA ITEM DETAIL SHEET

BILL NUMBER/ISSUE: AB 1525 – Allen and Alejo – Elder and dependent abuse – money transmitters

BILL SUMMARY: This bill would include a person or entity engaged in money transmission in the definition of a mandated reporter of suspected financial abuse of an elder or a dependent adult.

BACKGROUND: Existing law requires that, among others, employees of financial institutions must report known or suspected financial abuse to specified agencies (mandated reporters.) This bill would include money transmitters in the definition of mandated reporters.

ANALYSIS/DISCUSSION: Money transmitters are defined as entities that have a license in the State of California to: 1) issue money orders and traveler's checks, 2) send money transfers and, 3) hold money as stored value. Many big box, grocery and retail stores are now offering these services.

Therefore, the implication is that anyone who is processing money for an individual shall be responsible for reporting suspect or know activity that may be construed as financial abuse.

If appropriately executed, this process would result in more protection of the financial rights of persons with disabilities since more individuals are designated as mandated reporters.

COUNCIL STRATEGIC PLAN OBJECTIVE: Goal #4- Public safety agencies, other first responders and the justice system get information and assistance to be knowledgeable and aware of the needs of individuals with developmental disabilities so they can respond appropriately when individuals with developmental disabilities may have experienced abuse, neglect, sexual or financial exploitation or violation of legal or human rights.

PRIOR COUNCIL/COMMITTEE ACTIVITY: The LPP Committee took action to support this bill with an amendment for a training component for employees of money transmitters to understand their mandated reporting requirement.

LPPC RECOMMENDATION: Support AB 1525 with a training component added.

ATTACHMENT: AB 1525

PREPARED: Melissa C. Corral – February 22, 2012

ASSEMBLY BILL

No. 1525

Introduced by Assembly Members Allen and Alejo
(Principal coauthor: Senator Pavley)

January 19, 2012

An act to amend Section 15630.1 of the Welfare and Institutions Code, relating to elder or dependent adult financial abuse.

LEGISLATIVE COUNSEL'S DIGEST

AB 1525, as introduced, Allen. Elder or dependent adult financial abuse: mandated reporters.

Existing law requires a mandated reporter of suspected financial abuse of an elder or dependent adult to report the known or suspected instance of financial abuse to specified entities. Existing law defines a mandated reporter for these purposes as an employee or officer of a financial institution, as defined. Existing law imposes civil penalties for the failure to report financial abuse, and requires these civil penalties to be recovered in a civil action brought against the financial institution by the Attorney General, district attorney, or county counsel.

This bill would include a person or entity engaged in money transmission, as defined, in the definition of a mandated reporter of suspected financial abuse of an elder or dependent adult.

This bill also would make various technical and conforming changes.

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 15630.1 of the Welfare and Institutions
2 Code is amended to read:

3 15630.1. (a) As used in this section, ~~“mandated reporter of~~
4 ~~suspected financial abuse of an elder or dependent adult”~~ means
5 ~~all officers and employees of financial institutions.~~

6 ~~(b) As used in this section, the term “financial institution” the~~
7 ~~following definitions apply:~~

8 (1) *“Financial abuse” means financial abuse as defined in*
9 *Section 15610.30.*

10 (2) *“Financial institution” means any of the following:*

11 ~~(1)~~

12 (A) A depository institution, as defined in Section 3(c) of the
13 Federal Deposit Insurance Act (12 U.S.C. Sec. 1813(c)).

14 ~~(2)~~

15 (B) An institution-affiliated party, as defined in Section 3(u) of
16 the Federal Deposit Insurance Act (12 U.S.C. Sec. 1813(u)).

17 ~~(3)~~

18 (C) A federal credit union or state credit union, as defined in
19 Section 101 of the Federal Credit Union Act (12 U.S.C. Sec. 1752),
20 including, but not limited to, an institution-affiliated party of a
21 credit union, as defined in Section 206(r) of the Federal Credit
22 Union Act (12 U.S.C. Sec. 1786(r)).

23 ~~(e) As used in this section, “financial abuse” has the same~~
24 ~~meaning as in Section 15610.30.~~

25 (3) *“Mandated reporter of suspected financial abuse of an elder*
26 *or dependent adult” means either of the following:*

27 (A) *An officer or employee of a financial institution.*

28 (B) *A money transmitter.*

29 (4) *“Money transmitter” means a person or entity engaged in*
30 *money transmission as defined in subdivision (o) of Section 2003*
31 *of the Financial Code.*

32 ~~(d)~~

33 (b) (1) Any mandated reporter of suspected financial abuse of
34 an elder or dependent adult who has direct contact with the elder
35 or dependent adult or who reviews or approves the elder or
36 dependent adult’s financial documents, records, or transactions,
37 in connection with providing financial services with respect to an
38 elder or dependent adult, and who, within the scope of his or her

1 employment or professional practice, has observed or has
2 knowledge of an incident, that is directly related to the transaction
3 or matter that is within that scope of employment or professional
4 practice, that reasonably appears to be financial abuse, or who
5 reasonably suspects that abuse, based solely on the information
6 before him or her at the time of reviewing or approving the
7 document, record, or transaction in the case of mandated reporters
8 who do not have direct contact with the elder or dependent adult,
9 shall report the known or suspected instance of financial abuse by
10 telephone or through a confidential Internet reporting tool, as
11 authorized pursuant to Section 15658, immediately, or as soon as
12 practicably possible. If reported by telephone, a written report shall
13 be sent, or an Internet report shall be made through the confidential
14 Internet reporting tool established in Section 15658, within two
15 working days to the local adult protective services agency or the
16 local law enforcement agency.

17 (2) When two or more mandated reporters jointly have
18 knowledge or reasonably suspect that financial abuse of an elder
19 or a dependent adult for which the report is mandated has occurred,
20 and when there is an agreement among them, the telephone report
21 or Internet report, as authorized by Section 15658, may be made
22 by a member of the reporting team who is selected by mutual
23 agreement. A single report may be made and signed by the selected
24 member of the reporting team. Any member of the team who has
25 knowledge that the member designated to report has failed to do
26 so shall thereafter make that report.

27 (3) If the mandated reporter knows that the elder or dependent
28 adult resides in a long-term care facility, as defined in Section
29 15610.47, the report shall be made to the local ombudsman or local
30 law enforcement agency.

31 (e)

32 (c) An allegation by the elder or dependent adult, or any other
33 person, that financial abuse has occurred is not sufficient to trigger
34 the reporting requirement under this section if both of the following
35 conditions are met:

36 (1) The mandated reporter of suspected financial abuse of an
37 elder or dependent adult is aware of no other corroborating or
38 independent evidence of the alleged financial abuse of an elder or
39 dependent adult. The mandated reporter of suspected financial

1 abuse of an elder or dependent adult is not required to investigate
2 any accusations.

3 (2) In the exercise of his or her professional judgment, the
4 mandated reporter of suspected financial abuse of an elder or
5 dependent adult reasonably believes that financial abuse of an
6 elder or dependent adult did not occur.

7 ~~(f)~~

8 (d) Failure to report financial abuse under this section shall be
9 subject to a civil penalty not exceeding one thousand dollars
10 (\$1,000) or if the failure to report is willful, a civil penalty not
11 exceeding five thousand dollars (\$5,000), which shall be paid by
12 the financial institution that is the employer of the mandated
13 reporter, *the money transmitter, or, as applicable, the employer*
14 *of the money transmitter*, to the party bringing the action.
15 Subdivision (h) of Section 15630 shall not apply to violations of
16 this section.

17 ~~(g)~~

18 (e) (1) The civil penalty provided for in subdivision ~~(f)~~ (d) shall
19 be recovered only in a civil action brought against the financial
20 institution *or the money transmitter* by the Attorney General,
21 district attorney, or county counsel. No action shall be brought
22 under this section by any person other than the Attorney General,
23 district attorney, or county counsel. Multiple actions for the civil
24 penalty ~~may~~ *shall* not be brought for the same violation.

25 (2) Nothing in the Financial Elder Abuse Reporting Act of 2005
26 shall be construed to limit, expand, or otherwise modify any civil
27 liability or remedy that may exist under this or any other law.

28 ~~(h)~~

29 (f) As used in this section, “suspected financial abuse of an elder
30 or dependent adult” occurs when a person who is required to report
31 under *paragraph (3) of subdivision (a)* observes or has knowledge
32 of behavior or unusual circumstances or transactions, or a pattern
33 of behavior or unusual circumstances or transactions, that would
34 lead an individual with like training or experience, based on the
35 same facts, to form a reasonable belief that an elder or dependent
36 adult is the victim of financial abuse ~~as defined in Section~~
37 ~~15610.30~~.

38 ~~(i)~~

39 (g) Reports of suspected financial abuse of an elder or dependent
40 adult made by an employee or officer of a financial institution *or*

1 *a money transmitter* pursuant to this section are covered under
2 subdivision (b) of Section 47 of the Civil Code.

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COUNCIL AGENDA ITEM DETAIL SHEET

ISSUE: 2012-13 Governor's Budget

BACKGROUND: Each January the Governor issues a proposed State Budget for the coming fiscal year (July-June). On January 5, 2012, Governor Jerry Brown issued his budget proposal. The normal deadline for passage of a new fiscal year budget is June 30th of each year, although the proposed 2012-13 budget assumes that a portion of the proposal will be adopted by the Legislature by March 1, 2012.

ANALYSIS/DISCUSSION: The Governor's 2012-13 budget proposes many reductions that will impact people with developmental disabilities, as well as recognizing the State's \$9.2 billion deficit from the remainder of 2011-12 and projected for 2012-13 and need to make reductions and structural changes.

COUNCIL STRATEGIC PLAN OBJECTIVE: Goal 14- Public policy in California promotes the independence, productivity, inclusion and self determination of individuals with developmental disabilities and their families. Objective 14(a) - The Council will take a position on proposed state and federal legislation and proposed regulations that impact people with developmental disabilities, will communicate those positions to legislators and their staff, and will disseminate this information to all interested parties.

PRIOR COUNCIL ACTIVITY: On February 16, 2012, LPPC reviewed key elements in the Governor's 2012-13 Budget and is recommending positions on specific proposals to the Council.

LPPC RECOMMENDATION: See attached.

ATTACHMENT: 2012-13 Governor's Budget Position Recommendations and related documents made available since the LPPC meeting.

PREPARED: Carol J. Risley February 22, 2012

2012-13 Governor's Budget
LPPC Position Recommendations
(Recommendations Appear in Red)

Basic Principles

LPPC recommends that prior to adopting positions on individual budget proposals that the Council adopt a set of principles as follows:

- ▶ *The Council recognizes the magnitude of California's fiscal crisis and that all Californians will be impacted by balancing the budget, thus individuals with developmental disabilities will likely share in this correction, but should not be expected to assume an inequitable portion of the burden.*
- ▶ *Budget solutions must not result in people with developmental disabilities having their health and safety negatively impacted, jeopardize their inclusion in the community, force them to become less productive, and/or reduce their ability to direct their own lives and make choices.*
- ▶ *Budget solutions must not violate the basic tenet of the developmental services system as a civil/social rights model rather than medical model, nor reduce the quality of available services.*
- ▶ *Budget solutions must examine the entire state system to seek administrative efficiencies and economies of scale, not just impact direct services to Californians.*
- ▶ *Budget solutions must not violate the basic underpinnings of existing federal and state statutes and court decisions that serve to assure the provision of quality services and supports and protect basic human rights.*
- ▶ *Budget solutions must seek and maximize all available income.*

Department of Developmental Services (DDS)

Principles

- ▶ *Budget solutions may define and refine the level of entitlement to services and supports in the developmental services system, they must not eliminate the entitlement to access and receive services and supports from the system by eligible individuals and families.*
- ▶ *Budget solutions must be shared by the entire developmental services system, not solely applied to community services, and more specifically purchase of services and supports for individuals with developmental disabilities.*
- ▶ *Budget solutions must protect continuity and avoid developing gaps in the lives and needed services and supports of people with developmental disabilities.*
- ▶ *Budget solutions must not undermine or violate the individual program planning process and outcomes.*
- ▶ *Budget solutions must not increase co-payments or application of income criteria to access services and supports beyond what exist currently.*
- ▶ *Budget solutions must be as far away as possible from direct*

Community Services Program

- A total budget of \$4.063 billion representing an increase of \$79.2 million over 2011-12.

This includes increased funding for regional center operations and purchase of services to reflect increased caseload and expenditure data; decreased funding in regional center operations for the ICF-DD State Plan Amendment Administration Fees and day treatment and transportation costs for ICF-DD-H residents; a decrease to reflect updates expenditures in other department's budgets for Adult Day Health Centers and reductions in Medi-Cal caps and co-payments; an increase to reflect the sunset of the 4.25% payment reduction on June 30, 2012; an increase for the Financial Management

Services for Participant-Directed Services ; a decrease to reflect a technical adjustment to annualize the cost containment proposals specified in Assembly Bill 104, Chapter 37, and Statutes of 2011; an increase to reflect a fund shift from California First Five Commission to the general fund (Proposition 10); and a decrease to reflect a trigger reduction of \$200 million general fund to be achieved.

▶ *Oppose the \$200 million trigger reduction.*

Revisit this item after DDS issues its proposed plan to address the \$200 million trigger reduction.

Developmental Centers

- Estimated average number of residents of 1,533 reflecting a decrease of 226 (12.8%). A total budget of \$559.1 million reflecting a decrease of \$18 million.

▶ *Place a moratorium on admissions to developmental centers and provide regional centers necessary flexibility and funding to provide community services and supports for those deflected from developmental center placement.*

DEPARTMENT OF SOCIAL SERVICE (CDSS)

In-Home Supportive Services (IHSS)

- Elimination of "domestic and related services" (housework, shopping, and meal preparation) for approximately 254,000 IHSS with some exceptions this would affect recipients whose need for any domestic or related service is "met in common" with other household members, including children under age 18 who live with a parent.

▶ *Oppose*

- An across-the-board 20 percent reduction in hours of service for the IHSS Program on April 1, 2012. The "trigger cuts" in the 2011-12 budget agreement imposed this reduction on January 1, 2012. A court injunction has thus far prevented the state from reducing hours.

▶ **Oppose**

- All individuals receiving both Medi-Cal and Medicare benefits (dual eligibles) will be required to enroll in managed care health plans for their Medi-Cal benefits. The IHSS program will operate as it does today during 2012-13; all authorized IHSS benefits will be included in managed care plans. No IHSS savings are estimated to result from this proposal in 2012-13.

▶ *Oppose expansion from 4 to 10 counties and mandatory enrollment of beneficiaries into managed care. Current law authorizes integrated care pilots in 4 counties for the purpose of testing the assumptions regarding improved services and reduces costs for IHSS. The expansion lacks detail and is on a very aggressive timeline without adequate responses to the myriad of concerns raised by IHSS recipients and advocates.*

DEPARTMENT OF HEALTH CARE SERVICES (DHCS)

- ▶ All efforts must be made to access and maximize other sources of income including but not limited to:
- *Issuing directions to counties regarding the use of state and local funds for Medi-Cal share of costs for California Children's Services (CCS).*
 - *Require that the Consolidated Omnibus Budget Reconciliation Act (COBRA) notices be issued in California to provide information about the Health Insurance Premium Payment Program (HIPP) for coverage of premium costs of COBRA benefits; and information that receiving an extension of the 11-month disability extension does not require a person to qualify for Social Security benefits.*
 - *Examine other states' successes in ensuring that costs of long-term care are not prematurely shifted from Medicare to Medi-Cal.*

- *Seek payments by health plans to cover their obligations to children with disabilities covered under their parent's group plans.*
- *Require private insurance plans to cover the full cost of wheelchairs and other durable medical equipment.*
- *Pursue federal financial participation for the costs of veterans' pharmacy benefits.*

Medi-Cal

- Shifts more than 1 million seniors and people with disabilities who currently qualify for both Medi-Cal and Medicare (dual eligibles) from fee-for-service Medi-Cal into managed care. This proposal would also broaden the scope of managed care services to include In-Home Supportive Services, other home and community-based services, and nursing home care funded by Medi-Cal. These changes would be phased in over a three-year period beginning on January 1, 2013.
 - ▶ *Oppose and revisit when additional details are available regarding how the proposal will be implemented. Specifically oppose the design now being considered to passively enroll all applicable populations, allowing them to "opt out" later; instead support an "opt-in" approach allowing individuals maximum choice.*
- Reduces eligibility for the Medical Therapy Program (MTP). Currently, the program does not require families to meet an income test. Under the proposal, families would be eligible for the MTP only if their income is less than \$40,000 per year or if they also receive services through the California Children's Services (CCS) Program and their CCS expenses exceed 20 percent of their income.
 - ▶ *Oppose, reduces services to children with disabilities.*
- Requires Medi-Cal enrollees to select their health plan during an annual open enrollment period and remain in that plan for a full year. Currently, Medi-Cal enrollees may, but normally do not, change their plans monthly.
 - ▶ *Oppose, reduces current flexibility.*

DEPARTMENT OF MENTAL HEALTH

Caregivers Resource Centers

- Elimination of all funding (\$2.9 million) for the Caregivers Resource Centers that provide services and supports to individuals with brain injuries.
 - ▶ *Oppose. This is a vital support system for persons providing care to individuals with traumatic brain injuries.*

DEPARTMENT OF REHABILITATION (DOR)

Vocational Rehabilitation

- A total budget of \$400.5 million, an increase of \$6 million over 2011-12.
 - ▶ *Support*

Independent Living Services

- A total budget of \$20.6 million, a decrease of \$86,000 over 2011-12.
 - ▶ *Support*

CALIFORNIA DEPARTMENT OF EDUCATION (CDE)

General Education Mandates

- Proposed elimination of mandates for Agency Fee Arrangements, Caregiver Affidavits, Financial and Compliance Audits, Habitual Truants, Law Enforcement Agency Notifications, Mandate Reimbursement Process, Missing Children Reports, Notification of Truancy, Notification to Teachers: Pupil Discipline Records, Notification to Teachers: Pupil Suspension or Expulsion I and II, Behavioral Intervention Plans, Physical Performance Tests, Pupil Suspensions, Expulsions, Expulsion Appeals, and Threats Against Peace Officers.
 - ▶ *Oppose the elimination of the mandates for behavioral intervention plans, pupil suspensions, expulsions and seclusion appeals, and notification of truancy.*

Special Education

- Reduces 2011-12 funding for special education programs by \$24.3 million to reflect increased property tax revenue allocated to school districts due to the phase out of redevelopment agencies.

▶ *Support*

- Increases special education funding by \$12.3 million to reflect enrollment growth.

▶ *Support*

CALIFORNIA COMMUNITY COLLEGES (CCC)

- Consolidate funding for nearly all categorical programs and allow community colleges to use the funds for any purpose.

▶ *Oppose unless the Disabled Students Program (DSP) is removed from the consolidation proposal. This is a vital service to support access to community colleges by individuals with disabilities.*

COUNCIL AGENDA ITEM DETAIL SHEET

ISSUE: Sponsorship request from United Cerebral Palsy (UCP) of San Diego County.

BACKGROUND: The California State Council on Developmental Disabilities (SCDD) supports events that promote self-advocacy, leadership and education, thereby enabling people with developmental disabilities and their family members to expand their knowledge and skills. Toward that goal, organizations may apply for Council sponsorships for events that promote consumer and family self-advocacy.

ANALYSIS/DISCUSSION: On the behalf of the College Bound program, United Cerebral Palsy (UCP) of San Diego County, acting as sponsor and fiscal agent, is requesting a \$999 sponsorship.

College Bound is a week long on-campus living and learning experience for youth (ages 17-22) with developmental disabilities who have a goal to attend college. This is the second year to offer the program to approximately 12-15 adults. The program addresses areas critical to college success including: developing friendships, academic expectations, self-advocacy and rights, campus resources, roommate etiquette, social and leisure skills, independent living issues, safety, health and wellness, social dining, communication, and so much more. Current research indicates that:

- All youth with disabilities who receive post secondary education are more likely to be competitively employed and obtain higher earnings over time than their peers who do not have this experience.
- Post secondary education for students with more significant disabilities also correlates positively with independence, the development of self-determination skills, and promotion of social interaction between students with developmental disabilities and their typical college-age peers.

College Bound believes that the week long program is a great first start for students to enhance their potential at success in college.

The program will be offered on the campus of the University of San Diego, July 8-13, 2012. Students will stay on campus Sunday evening through Friday afternoon.

SCDD funds will be used to assist in paying stipends for the Director and other staff who provide supervision and support throughout the week.

COUNCIL STRATEGIC PLAN GOAL/OBJECTIVE: Goal #2: Individuals with developmental disabilities and their families become aware of their rights and receive the supports and services they are entitled to by law across the lifespan, including early intervention, transition into school, education, transition to adult life, adult services and supports, and senior services and supports.

Objective 2b) Individuals with developmental disabilities, their families and their support and/or professional staff will increase their knowledge and skills so as to effectively access needed educational and/or community-based services through at least 225 trainings, conferences, workshops, webinars, and/or resource materials developed by the Council on topics such as rights under IDEA, rights under California's Lanterman Act etc. on an annual basis.

PRIOR COUNCIL ACTIVITY: Since the beginning of FY 2011-12, the Council has awarded \$2,997 for sponsorships. The Council allocates \$25,000 per fiscal year for sponsorships. The fiscal year began July 1, 2011.

STAFF RECOMMENDATION: Award \$999 to UCP of San Diego.

ATTACHMENTS(S): UCP of San Diego sponsorship request, sponsorship budget, and support letter.

PREPARED: Kristie Allensworth February 23, 2012



February 8, 2012



State Council on Developmental Disabilities
1507 21st Street, Suite 210
Sacramento, CA 94811

To Whom It Concerns:

On behalf of the **College Bound** program, United Cerebral Palsy of San Diego County, acting as sponsor and fiscal agent, is requesting an SCDD Sponsorship.

College Bound is a week long on-campus living and learning experience for youth (ages 17 – 22) with developmental disabilities who have a goal to attend college. This is our second year to offer the program to approximately 12-15 young adults. The program addresses areas critical to college success including: developing friendships, academic expectations, self-advocacy and rights, campus resources, roommate etiquette, social and leisure skills, independent living issues, safety, health and wellness, social dining, communication, and so much more. Current research indicates that:

- All youth with disabilities who receive post secondary education are more likely to be competitively employed and obtain higher earnings over time than their peers who do not have this experience.
- Post secondary education for students with more significant disabilities also correlates positively with independence, the development of self-determination skills, and promotion of social interaction between students with developmental disabilities and their typical college-age peers.

We believe that our week long program is a great first start for students to enhance their potential at success in college.

The program will be offered on the campus of the University of San Diego, July 8 – 13, 2012. Students stay on campus Sunday evening through Friday afternoon.

In order to attract students who will obtain maximum benefit from the program, promotional materials have been developed and are disseminated throughout San Diego County and other parts of the state. Locations included the local school districts and transition programs, Autism Tree, Compass Family Services, San Diego Regional Center, Area Board, Autism Society, and the Exceptional Family Resource Center. Information will be also posted on the following websites: San Diego Regional Center, Area Board XIII, United Cerebral Palsy, Disability Rights California and Valerie's List. Our committee is made up of a diverse group of representatives from many of the above organizations as well as parents and individuals with developmental disabilities who have attended college or are interested in attending college. Committee members participate in local conference resource fairs (e.g. IEP Day, Fiesta Educativa)

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Executive Director

www.ucpsd.org

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A UNITED WAY AGENCY



to share information on the program. Other Area Boards throughout the state will also receive the information to share with potential interested family members and youth.

SCDD funds will be used to assist in paying stipends for the Director and other staff who provide supervision and support throughout the week.

Attached are:

- 1) A complete budget for the program.
- 2) A list of other SCDD grants received by United Cerebral Palsy.
- 3) A letter of recommendation from

Should we receive SCDD sponsorship, acknowledgement of support that consumer participation in the event is made possible, in part, with funding from the State Council on Developmental Disabilities will be provided during the event, most likely on our College Bound t-shirts, our curriculum binders, and at our graduation ceremony.

Please feel free to contact me at (858) 278-5420 x 131 if you have any questions. Thank you for your consideration.

Yours truly,



David Drazenovich, Director of Programs
United Cerebral Palsy Association of San Diego County
8525 Gibbs Drive, Suite 209
San Diego, CA 92123

**2012 College Bound
Budget**

<u>Income</u>	<u>Amount</u>
Foundation Grant	\$6,000
SCDD Sponsorship	\$999
Fundraising	\$2,300
Tuition (\$700 x 12)	<u>\$8,400</u>
Total	\$17,699

<u>Expenses</u>	<u>Amount</u>
Stipends	\$2,600
Director (x1)	\$1,000
Nursing	\$100
PT Staff (x2)	\$1,000
Speakers**	\$500
College Costs	\$5,660
Room (\$40 x 14 x 5)	\$2,800
Meals (\$32 x 16 x 5)	\$2,560
Classroom	\$300
Conference Materials***	\$2,425
Food	\$225
Curriculum Materials	\$1,000
Misc. Supplies	\$500
T-Shirts	\$500
Graduation Ceremony	\$200
Outside Printing	\$400
Brochures	\$200
Promo. Materials	\$200
Postage	\$100
Administrative Allocation	\$500
Scholarships*	<u>\$6,000</u>
Total	\$17,685

Date: 2/2012

**STATE COUNCIL ON DEVELOPMENTAL DISABILITIES GRANT AWARD HISTORY
TO UNITED CEREBRAL PALSY ASSOCIATION OF SAN DIEGO COUNTY**

<u>YEAR</u>	<u>PROJECT</u>	<u>AMOUNT</u>
2011	Regional Self-Advocacy Network with With Area Board 13	\$10,000
2008	Agency Sponsorship Grant for People First Conference Expenses	\$800
2007	Assistive Technology Center Loan Program	\$68,388
2004-06	Project Success Service Learning Program	\$157,291
1996	Assistive Technology Center	\$ 45,000
<u>Grants Submitted/Denied</u>		
2006	IPP Buddy System	\$80,000



San Diego Regional Center

Serving Individuals with Developmental Disabilities in San Diego and Imperial Counties
4355 Ruffin Road, San Diego, California 92123 • (858) 576-2996 • www.sdrc.org

February 7, 2012

State Council on Developmental Disabilities
1507 21st Street, Suite 210
Sacramento, CA 95811

RE: Letter of Support – College Bound

To Whom It May Concern:

The San Diego Regional Center (SDRC) supports United Cerebral Palsy (UCP) of San Diego's request for SCDD sponsorship for College Bound. If funded, this project would support individuals with developmental disabilities to increase skills necessary to be successful in college. SDRC understands the importance of the opportunity for full inclusion in college for people with disabilities and believes in the development of programs that support individuals to grow in areas that lead to advancement in educational goals. SDRC also recognizes that San Diego County has no other programs similar to College Bound that allow individuals with developmental disabilities to experience campus living for a week while learning organizational, academic, social, and independent living skill applicable to college life.

The San Diego Regional Center is a nonprofit corporation responsible for diagnostic, counseling and coordination of services for people with developmental disabilities in San Diego and Imperial Counties. The San Diego Regional Center currently provides services to more than 19,000 people with developmental disabilities and serves as a focal point within the community for developing needed resources for persons with developmental disabilities and their families. The San Diego Regional Center recognizes and has supported the self-advocacy and self-determination efforts of persons with developmental disabilities. I have worked with UCP of San Diego on the development of programs within the organization and feel confident in their ability to provide quality programming to adults with developmental disabilities.

I wish UCP success in securing funding for this initiative. If I can be of further assistance, please feel free to contact me.

Sincerely,

Stormy Miller, MSW
Adult Day Programs/Habilitation Coordinator
Community Services
San Diego Regional Center

xc: Dan Clark; Carlos Flores

East County Office
8760 Cuyamaca St., #100
Santee, CA 92071
(619) 596-1000

Imperial County Office
512 W. Aten Rd.
Imperial, CA 92251
(760) 355-8383

North County Office
1370 W. San Marcos Blvd., #100
San Marcos, CA 92078
(760) 736-1200

South County Office
2727 Hoover Ave., #100
National City, CA 91950
(619) 336-6600

EXECUTIVE COMMITTEE AGENDA ITEM DETAIL SHEET

ISSUE: 2013 State Council Grant Cycle

BACKGROUND: Each federal fiscal year, the Council administers grants to community-based organizations to fund new and innovative program development projects. All projects are designed to implement the California State Strategic Plan on Developmental Disabilities (Plan) goals and objectives and improve and enhance services for Californians with developmental disabilities and their families. Program Development Grants (PDG) provides funding for new approaches to serving Californians with developmental disabilities that are part of an overall strategy for systemic change. Available grant funds included in the Council budget are approximately \$1 million annually, however subject to federal appropriations to the Council.

During 2012 (current year) each area board was given \$35,000 to solicit and fund projects consistent with the Plan.

ANALYSIS/DISCUSSION: Due to lack of Council appointees (quorum) and staff resources (no appointments), the 2013 grant process has yet to be established, however must be prior to the May Council meeting in order to establish a timeline that will allow for the solicitation, awarding and contracting process for projects to begin October 1, 2012 (federal fiscal year 2013).

Because the grant process was addressed via the area board during 2012, on March 22, 2012, area board executive directors met with Council staff to review the 2012 process, timeline for 2013 and develop recommendations for the 2013 grant cycle. Based upon their experiences from 2010 and 2012 which varied from small (\$10,000) mini grants to a larger (\$35,000) local allocation, the executive directors recommend the following for 2013:

1. Each area is allocated \$20,000 (\$260,000) for local projects consistent with the State Plan and local priorities.
2. Area boards will fund no more than two projects from the allocation in order to reduce the contracting workload.
3. Area boards are encouraged to solicit regional projects (more than one area board).

4. The remainder of the funding (absent that already committed to support of self-advocacy activities and based upon the actual level of funds available) be used in a request for proposal for larger, potential statewide impact, project. This portion would be managed by the Council's Program Development Committee based upon Council identification of selected priorities from the Plan.

COUNCIL STRATEGIC PLAN OBJECTIVE: All goals and objectives in the 2012-16 Plan

PRIOR COUNCIL ACTIVITY: See background information.

STAFF RECOMMENDATION(S): Adopt the area board executive directors' recommendation to allocate \$20,000 for each area to conduct a local program development process that is limited to no more than two projects consistent with the State Plan goals and local plans, and encourage regional collaboration.

The remainder of the available funds would be referred for recommendation to the council's Program Developmental Committee for recommendations to the Council for use during 2013.

ATTACHMENT(S): None

PREPARED: Carol J. Risley March 22, 2012