

**DEPARTMENT OF DEVELOPMENTAL SERVICES**

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**DATE: JULY 29, 2009**

**TO: REGIONAL CENTER DIRECTORS AND BOARD PRESIDENTS**

**SUBJECT: TRAILER BILL LANGUAGE AFFECTING REGIONAL CENTERS**

The purpose of this correspondence is to transmit a summary of the Fiscal Year (FY) 2009-10 Trailer Bill language (ABX4 9, Chapter 9, Statutes of 2009) that directly affects regional centers or the developmental services system. Trailer Bill language (TBL) was enacted on July 28, 2009. TBL contains an urgency clause, and is therefore effective immediately. For any required modification to a consumer's Individualized Family Service Plan (IFSP) or Individual Program Plan (IPP), as a result of TBL, the regional center must provide the appropriate notification pursuant to Government Code section 95007 or Welfare and Institutions Code section 4700 et. seq. Regional centers should continue to educate their communities regarding these legislative changes. The Department of Developmental Services (DDS) has posted a summary of the budget reductions on its internet home page at [www.dds.ca.gov](http://www.dds.ca.gov).

While this correspondence provides a high level summary of the TBL, a complete and thorough review of the TBL (see [www.leginfo.ca.gov](http://www.leginfo.ca.gov)) is imperative for regional centers' statutory compliance.

### **General Standards**

#### **Purchase of Experimental Treatments**

TBL Section 10: Welfare and Institutions Code section 4648(a)(15) was amended to prohibit regional centers from purchasing experimental treatments, therapeutic services or devices that have not been clinically determined or scientifically proven to be effective or safe or for which risks and complications are unknown. Experimental treatments or therapeutic services include experimental medical or nutritional therapy when the use of the product for that purpose is not a general physician practice.

*Implementation:* For new IFSPs and IPPs, this provision is effective upon the enactment of TBL, which occurred on July 28, 2009. For existing IFSPs/IPP regional centers must immediately provide 30-day notice to discontinue funding after enactment of TBL.

**"Building Partnerships, Supporting Choices"**

### **Maximizing Generic Resources**

TBL Section 15: Welfare and Institutions Code section 4659(c) was amended to prohibit regional centers from purchasing any service that would otherwise be available from Medi-Cal, Medicare, the Civilian Health and Medical Program for Uniform Services, In-Home Supportive Services (IHSS), California Children's Services, private insurance or a health care service plan if a consumer or a family meets the criteria to receive the service but chooses not to pursue that coverage.

*Implementation:* For new IFSPs and IPPs, this provision is effective upon the enactment of TBL, which occurred on July 28, 2009. For existing IFSPs/IPP's requiring modification, this provision will be effective October 1, 2009. Regional centers should immediately begin working with consumers/families impacted on October 1, 2009 by this section to begin the application process with these entities.

### **Documentation of Denial by Generic Resource for Medical/Dental Services**

TBL Section 15: Welfare and Institutions Code section 4659(d) was amended to prohibit regional centers from purchasing medical or dental services for a consumer three years of age or older unless the regional center is provided with documentation of a Medi-Cal, private insurance, or health care service plan's denial and the regional center determines that an appeal by the consumer or family of the denial does not have merit. The law allows regional centers to pay for medical or dental services while coverage is being pursued, but before a denial is made; pending a final administrative decision on the administrative appeal if the family has provided to the regional center a verification that an administrative appeal is being pursued; or until commencement of services by Medi-Cal, private insurance, or a health care service plan.

*Implementation:* For new IPPs, this provision is effective upon the enactment of TBL, which occurred on July 28, 2009. For existing IPPs regional centers must immediately provide 30-day notice to allow for implementation after enactment of TBL.

### **Least Costly Vendor**

TBL Section 10: Welfare and Institutions Code section 4648(a)(6)(D) was amended to require the IPP planning team to review the cost of providing services or supports of comparable quality by different providers and to choose the least costly available provider, including transportation, who is able to accomplish all or part of the consumer's IPP, consistent with the particular needs of the consumer and family as identified in the IPP. In determining the least costly provider, the availability of federal financial participation shall be considered. The consumer is not required to use the least costly provider if it will result in the consumer moving from an existing provider of services or supports to more restrictive or less integrated services or supports.

*Implementation:* This provision is effective immediately upon the enactment of TBL, which occurred on July 28, 2009, and implemented at the time of development, review, or modification of the IFSP or IPP.

### **Annual Statement of Services**

TBL Section 10: Section 4648(h) was added to the Welfare and Institutions Code, to require regional centers to provide, at least annually, each consumer, his or her parents, legal guardian, conservator, or authorized representative a statement of services and supports the regional center purchased for the purpose of ensuring that they are delivered. The statement must include the type, unit, month, and cost of services and supports purchased.

*Implementation:* This provision is effective immediately upon the enactment of TBL, which occurred on July 28, 2009.

### **Early Start-Specific Provisions**

#### **Early Start-Use Private Insurance**

TBL Section 1: Government Code section 95004 was amended to require families to use their private insurance or health care service plan for medical services identified in the IFSP, other than for evaluation and assessment, in compliance with applicable federal and state law and regulation. Regional centers must continue to ensure the timely provision of required early intervention services.

*Implementation:* This provision is effective immediately upon the enactment of TBL, which occurred on July 28, 2009, and implemented at the time of development, review, or modification of the IFSP.

#### **Early Start-Eligibility Criteria, Provision of Required Services**

TBL Section 2: Government Code section 95014(a)(1) was amended to define, for Early Start, infant and toddler eligibility requirements for the developmental delay category. Previously, eligibility due to a developmental delay required a "significant difference" between the expected level of development for an individual's age and the current level of functioning. That significant difference was measured as a 33 percent delay in one of five domains. TBL now defines eligibility due to a developmental delay as a 33 percent delay in one developmental area before 24 months of age, or, at 24 months of age or older, either a delay of 50 percent in one developmental area or a 33 percent delay in two or more developmental areas. The age for use in the determination of eligibility due to a developmental delay for Early Start shall be the age of the infant or toddler on the date of the initial referral to the Early Start program.

*Implementation:* This provision is effective immediately upon the enactment of TBL, which occurred on July 28, 2009. This change in eligibility is prospective; therefore currently eligible infants/toddlers remain eligible for Early Start services. Toddlers not eligible for Early Start services, as a result of these changes, may be eligible for the new Prevention Program once established. (See Prevention Program below.)

The amendments also alter the Early Start program eligibility requirements such that infants and toddlers who are at high risk of having a substantial disability due to a combination of biomedical risk factors do not qualify for Early Start program services.

*Implementation:* Effective October 1, 2009, there will be no Early Start Program Services for infants/toddlers who were previously receiving, or might have in the future received such services due to being "at risk" of having a substantial developmental disability due to a combination of biomedical risk factors. For infants/toddlers who are currently receiving services due to being "at risk", regional centers must provide 30-day notice that their services will end on September 30, 2009. As the TBL redefines eligibility for the Early Start program, "at risk" infants/toddlers impacted by this change have no right to a fair hearing seeking continued eligibility due to 'at risk' factors. However, parents could request a fair hearing if they believe their children meet the eligibility requirements for regional center services due to a developmental delay or an established risk condition. Services for "at risk" infants and toddlers impacted by the changes to Government Code section 95014(a)(1) above may be available through the new Prevention Program as described below. Regional centers should notify impacted families of these changes in services.

The amendments also specify that regional centers are responsible only for the provision of services that are required for California's participation in Part C of the federal Individuals with Disabilities Education Act. Required services are those early intervention services that are designed to meet the unique developmental needs of the child and the needs of the family related to enhancing the child's development. Local education agencies remain responsible for early intervention services provided to infants/toddlers with a solely low incidence condition (blind, deaf, or orthopedically handicapped).

### **Required Early Intervention Services and Eliminating Nonrequired Services**

TBL Section 3: Government Code Section 95020 was amended to prohibit regional centers from purchasing nonrequired services in Early Start, with the exception of durable medical equipment, but provides the option for referring families to other nonrequired services where available.

*Implementation:* While the statute calls for implementation on July 1, 2009; federal statute requires DDS to submit an amendment to the current Early Start state plan application prior to implementation of these changes. Regional centers should not implement this portion of the statute until October 1, 2009. This amendment is currently posted on the Department's internet home page for public comment. Beginning October 1, 2009, regional centers should not include nonrequired services on an infant or toddler's IFSP. For infants and toddlers whose current IFSP includes a nonrequired service, the regional center must provide 30 days notice of cessation of service. While some parents may contend at fair hearing that the nonrequired service is necessary the statute does not provide regional centers with authority to provide nonrequired services, with the exception of durable medical equipment. Current law stipulates, "The granting or denial of nonrequired services by a public or private agency is not subject to appeal under this title." [Government Code section 95020(e)(3)]

### **Prevention Program**

TBL Section 6: Section 4435 was added to the Welfare and Institutions Code to require DDS to establish a Prevention Program for at-risk babies. "At-risk baby," means a child under 36 months of age who is otherwise not eligible for the California Early Intervention Program and whose genetic, medical, developmental, or environmental history is predictive of a substantially greater risk for developmental disability than that for the general population. The program is to provide intake, assessment, case management, and referral to generic agencies. Subject to appropriation, DDS will allocate specific funding for the program to each regional center. DDS will establish policies and procedures for implementation of the program.

*Implementation:* Effective October 1, 2009. DDS has convened a stakeholder meeting to gain input on the structure of the Prevention Program, and is continuing to work with the Association of Regional Center Agencies and other stakeholders on implementation of the Prevention Program.

### **Other Consumer and Family Service Related Provisions**

#### **Group Training for Parents on Behavioral Intervention Techniques and Utilization of Neighborhood Preschools**

TBL Sections 3 and 17: Government Code section 95020 and Welfare and Institutions Code section 4685 were amended to require consideration of the following: the use of group training for parents for behavior intervention techniques, in lieu of some or all of the in-home parent training component of the behavior intervention services, and the purchase of neighborhood preschool services and needed qualified personnel, in lieu of infant development programs.

*Implementation:* This provision is effective immediately upon the enactment of TBL, which occurred on July 28, 2009, and implemented at the time of development, review, or modification of the IFSP or IPP.

### **Behavioral Services Standards**

TBL Sections 4 and 19: Section 95021 was added to the Government Code and Section 4686.2 was added to the Welfare and Institutions Code to specify the responsibilities of vendors who provide ABA or intensive behavioral intervention services or both, responsibilities of regional centers prior to purchasing these services, and the requirement that the parent(s) of minors participate in the intervention plan. Regional centers may not purchase ABA or intensive behavioral intervention services for purposes of providing respite, day care, or school services.

*Implementation:* The requirements for vendors are effective immediately upon enactment of TBL, which occurred on July 28, 2009. For new IFSPs and IPPs, this provision is also effective upon the enactment of TBL. For existing IFSPs/IPP regional centers must immediately provide 30-day notice to allow for implementation after enactment of TBL.

### **Large Facilities**

TBL Section 10: Welfare and Institutions Code section 4648(a)(3)(E) was amended to prohibit regional centers from newly vendorizing a State Department of Social Services licensed 24-hour residential care facility with a licensed capacity of 16 or more beds, unless the facility qualifies for receipt of federal funds under the Medicaid program. This provision is effective July 1, 2009. Welfare and Institutions Code section (a)(9)(B) was also amended to state that effective July 1, 2012, a regional center shall not purchase residential services from a State Department of Social Services licensed 24-hour residential care facility with a licensed capacity of 16 or more beds, with two exceptions: the residential facility has been approved to participate in the Home and Community-Based Services Waiver or another existing waiver program or is certified to participate in the Medi-Cal program; or the service provider has a written agreement and specific plan prior to July 1, 2012, with the vendorizing regional center to downsize the existing facility by transitioning its residential services to living arrangements of 15 beds or less or restructure the large facility to meet federal Medicaid eligibility requirements on or before June 30, 2013.

*Implementation:* This provision is effective immediately upon the enactment of TBL, which occurred on July 28, 2009. There is no expectation or requirement for devendorization of large facilities vendorized between July 1, 2009, and the enactment of TBL. Funds continue to be available to regional centers to assist with downsizing

large CCFs, as needed, to bring them into compliance with Home and Community-Based Services Waiver requirements and/or other federal financial participation (FFP) eligible programs. To be considered for downsizing funds, the regional center must meet with the residential service provider to develop an acceptable plan for making the program eligible for FFP and provide the plan, via a signed written contract, to DDS. The contract must include the amount of funds needed per fiscal year and specifically what will be accomplished with the funds during that fiscal year. DDS will consider allocating downsizing funds on a first come first serve basis.

### **Transportation Reform**

TBL Section 12: Section 4648.35 was added to the Welfare and Institutions Code stating that regional centers will not fund private specialized transportation services for an adult consumer who can safely access and utilize public transportation when that transportation is available, and will purchase the least expensive transportation modality that meets the consumer's needs, as set forth in the consumer's IFSP or IPP. In addition, a regional center may only fund transportation from the consumer's residence to the lowest-cost vendor that provides the service that meets the consumer's needs, as set forth in the consumer's IFSP or IPP, and may only fund transportation for a minor child living in the family residence if the family provides sufficient written documentation to demonstrate that it is unable to provide transportation for the child.

*Implementation:* This provision is effective immediately upon the enactment of TBL, which occurred on July 28, 2009, and implemented at the time of development, review, or modification of the IFSP or IPP.

### **Temporarily Suspend Services**

TBL section 13: Section 4648.5 was added to the Welfare and Institutions Code suspending the purchase of camping services and associated travel expenses; social recreation activities, except for those activities vendored as community-based day programs; educational services for children ages three to 17; and non-medical therapies, including, but not limited to, specialized recreation, art, dance, and music pending implementation and certification of the Individual Choice Budget (see below). The regional center may grant an exemption on an individual basis in extraordinary circumstances to permit the purchase of a service identified above when the regional center determines that the service is a primary or critical means for ameliorating the physical, cognitive, or psychosocial effects of the consumer's developmental disability, or the service is necessary to enable the consumer to remain in his or her home and no alternative service is available to meet the consumer's need.

This suspension is lifted upon certification of the Director of DDS that the Individual Choice Budget has been implemented and will result in State budget savings sufficient to offset the costs of providing the suspended services. (See Individual Choice Budget Section below.)

*Implementation:* For new IFSPs and IPPs, this provision is effective upon the enactment of TBL, which occurred on July 28, 2009. For existing IFSPs/IPP regional centers must immediately provide 30-day notice to discontinue funding after enactment of TBL.

### **Individual Choice Budget**

TBL Section 14: Section 4648.6 was added to the Welfare and Institutions Code requiring DDS, in consultation with stakeholders, to develop an alternative service delivery model that provides an Individual Choice Budget for obtaining quality services and supports which provides choice and flexibility within a finite budget that in the aggregate reduces regional center purchase of service expenditures, reduces reliance on the state general fund, and maximizes federal financial participation. The individual budget will be determined using a fair, equitable, transparent standardized process.

*Implementation:* DDS will convene a stakeholder meeting.

### **Expansion of In-Home Respite Agency Worker Duties**

TBL Section 18: Welfare and Institutions Code section 4686 was amended to include the provision of specified incidental medical services that may be provided by an in-home respite agency worker who is not a licensed health care professional but who is trained by a licensed health care professional. These services may only occur for consumers with stable conditions, and after successful completion of the required training. The consumer's treating physician or surgeon must give assurances to the regional center that the patient's condition is stable prior to the regional center's purchasing incidental medical services for the consumer through an appropriately trained respite worker. Incidental medical services are defined as: colostomy and ileostomy: changing bags and cleaning stoma; urinary catheter: emptying and changing bags and care of the catheter site; and gastrostomy: feeding, hydration, cleaning stoma, and adding medication per physician's or nurse practitioner's orders for the routine medication of patients with stable conditions. The training in incidental medical services shall be provided by physicians or registered nurses. The in-home respite agency providing the training shall develop a training protocol which shall be submitted to DDS. The amendments provide for a fifty cent (\$.50) per hour wage increase and an eight-cent (\$.08) per hour benefit increase for the hours the in-home respite agency is providing incidental medical services. In addition, a regional center may now reimburse

the in-home respite agency up to two hundred dollars (\$200) semiannually, for the provision of training in these services.

*Implementation:* This provision is effective immediately upon the enactment of TBL, which occurred on July 28, 2009. Also, DDS will send a letter to all in-home respite agencies (and copy regional centers) informing them of these provisions and the need to submit training protocols to DDS for approval. DDS' response to the respite agency's training protocols will be sent to the respite agency, and copied to the vendoring regional center. Upon receipt of documentation from the in-home respite agency that training was provided pursuant to this section, regional centers will be responsible for reimbursing the respite agency up to \$200. When authorizing respite services that include incidental medical services, the authorization will need to reflect the \$.58/hour increase for only those hours where these additional duties are performed.

#### **Respite Program-Temporary Service Standards**

TBL Section 20: Section 4686.5 was added to the Welfare and Institutions Code to specify the conditions under which a regional center may purchase respite services and that a regional center may not purchase more than 21 days of out-of-home respite services in a fiscal year nor more than 90 hours of in-home respite in a quarter, for a consumer. The regional center may grant an exemption from the respite limits if it is demonstrated that the intensity of the consumer's care and supervision needs are such that additional respite is necessary to maintain the consumer in the family home, or there is an extraordinary event that impacts the family member's ability to meet the care and supervision needs of the consumer.

The amendments also prohibit a regional center from purchasing day care services to replace or supplant respite services. "Day care" is defined as regularly provided care, protection, and supervision of a consumer living in the home of his or her parents, for periods of less than 24 hours per day, while the parents are engaged in employment outside of the home or educational activities leading to employment, or both. The amendments also stipulate that a regional center may only consider IHSS a generic resource when the approved IHSS hours meet the respite needs as identified in the IFSP/IPP.

These provisions shall remain in effect until implementation of the Individual Choice Budget.

*Implementation:* For new IFSPs and IPPs, this provision is effective upon the enactment of TBL, which occurred on July 28, 2009. For existing IFSPs/IPP regional

centers must immediately provide 30-day notice to allow for implementation after enactment of TBL.

### **New Service for Seniors at Reduced Rates**

TBL Section 21: Section 4688.1 was added to the Welfare and Institutions Code to require, effective July 1, 2009, vendors of behavior management, activity center, and adult development center day programs, social recreation programs, socialization training programs, community integration training programs, community activities support programs, creative art programs, and work activity programs to offer an alternative senior (over 50 years of age) program component at a ratio of no more than one staff to 8 consumers. The rate is not to exceed the lesser of thirty-five dollars (\$35) per day or the vendor's existing daily rate. Vendors of the service types listed above must offer the above component within the provider's existing vendored capacity as reflected in its program design or licensed capacity.

*Implementation:* This provision is effective upon enactment of TBL, which occurred on July 28, 2009. At the time of development, review, or modification of the IPP, regional centers must provide information about these services, as appropriate. The alternative senior program should be offered to eligible consumers who want to transition to a program component focused on the needs and interests of seniors. Implementation of the TBL is not to result in an expansion of the vendor's program capacity. Provision of this new senior component requires no new vendorization by the regional center. DDS will send a letter to community-based day program and work activity program providers (and copy regional centers) notifying them of these statutory changes.

### **Custom Endeavors Options (CEO)**

TBL Section 22: Section 4688.2 was added to the Welfare and Institutions Code to require, effective July 1, 2009, vendors of behavior management, activity center, and adult development center adult day programs, community integration training programs, and community activities support services programs to offer an alternative customized program component with an appropriate staffing component to meet individualized consumer needs. The program is to be offered within the service provider's vendored capacity, as reflected in its program design or licensed capacity. The regional center shall fund customized programs based on the vendor's existing rate and only fund those hours provided. The alternative customized program is to focus on a consumer's individualized needs and interests to develop or maintain employment or volunteer activities in lieu of their current program, and is to range between 20 and 80 hours per month for each participant.

*Implementation:* This provision is effective upon enactment of TBL, which occurred on July 28, 2009. At the time of development, review, or modification of the IPP, regional centers must provide information about these services, as appropriate. The alternative customized program should be offered to eligible consumers who want to transition to a program component focused on their individualized needs and interests to develop or maintain employment or volunteer activities in lieu of their current program. Implementation of the TBL is not to result in an expansion of the vendor's program capacity. Provision of this new alternative customized component requires no new vendorization by the regional center. DDS will send a letter to community-based day program providers (and copy regional centers) notifying them of these statutory changes.

### **Supported Living Services (SLS)**

TBL Section 24: Welfare and Institutions Code section 4689 was amended to require that the planning team of a consumer receiving SLS confirm that all appropriate and available sources of natural and generic supports have been utilized to the fullest extent possible; that regional centers utilize the same SLS provider for consumers residing in the same domicile, provided that each consumer's particular needs can still be met pursuant to his or her IPP; and that the consumer, and any roommate, make all rent, mortgage, or lease payments and be responsible for household expenses.

The law also specifies the conditions under which a regional center may make rent, lease or mortgage payments or assist with household expenses for a consumer in SLS not to exceed six months, with certain exceptions. To do so, the regional center executive director must verify in writing that making the rent, mortgage, or lease payments or paying for household expenses is required to meet the specific care needs unique to the individual consumer as set forth in an addendum to the consumer's IPP, and is required when a consumer's demonstrated medical, behavioral, or psychiatric condition presents a health and safety risk to himself or herself, or another. In addition, during the time period that a regional center is making rent, mortgage, or lease payments, or paying for household expenses, the SLS vendor must assist the consumer in accessing all sources of generic and natural supports consistent with the needs of the consumer. The regional center shall not make rent, mortgage, or lease payments on a supported living home or pay for household expenses for more than six months, unless the regional center finds that it is necessary to meet the individual consumer's particular needs pursuant to the consumer's IPP. The regional center shall review a finding of necessity on a quarterly basis and the regional center executive director shall annually verify in an addendum to the consumer's IPP that the requirements noted above continue to be met.

*Implementation:* These provisions are effective immediately upon the enactment of TBL, which occurred on July 28, 2009, and implemented at the time of development, review, or modification of the IFSP or IPP.

A regional center that has been contributing to rent, mortgage, or lease payments or paying for household expenses shall at the time of development, review, or modification of a consumer's IPP determine if specific conditions are met. If the planning team determines that these contributions are no longer appropriate, a reasonable time for transition, not to exceed six months, shall be permitted. All paid roommates and live-in support staff are responsible for their share of the rent, mortgage, or lease payments, and household expenses. "Household expenses" are defined as general living expenses and includes, but is not limited to, utilities paid and food consumed within the home.

The amendments also require that regional centers ensure SLS vendor's administrative costs (as defined in section 57434 of Title 17) are necessary and reasonable, and that the most cost-effective of the rate methodologies is utilized to determine the negotiated rate for SLS vendors. SLS vendors are required to provide assistance to a consumer who is a Medi-cal beneficiary in applying for In-Home Supportive Services within five days of the consumer moving into an SLS arrangement.

*Implementation:* This provision is effective immediately upon the enactment of TBL, which occurred on July 28, 2009. Regional centers must immediately review their contracts with vendored SLS providers to ensure compliance with these provisions.

### **In-Home Supportive Services (IHSS)**

TBL Section 25: Section 4689.05 was added to the Welfare and Institutions Code to prohibit regional centers from purchasing supportive services for a consumer who meets the criteria to receive, but declines to apply for, IHSS benefits, and from purchasing SLS to supplant IHSS. Between the date a consumer applies for IHSS and the date that a consumer's application for IHSS is approved, a regional center shall not purchase supportive services for the consumer at a rate that exceeds the IHSS hourly rate.

A regional center executive director may waive the requirement for a consumer to apply for IHSS if the executive director finds that extraordinary circumstances warrant the waiver, and that a finding is documented in an addendum to the consumer's IPP.

*Implementation:* This provision is effective immediately upon the enactment of TBL, which occurred on July 28, 2009. DDS will post county IHSS rates on its internet home page.

### **Uniform Holiday Schedule**

TBL Section 26: Section 4692 was added to the Welfare and Institutions Code to implement a 14-day uniform holiday schedule for work activity programs, activity centers, adult development centers, behavior management programs, social recreation programs, adaptive skills trainers, infant development programs, program support groups (day service), socialization training programs, client/parent support behavior intervention training programs, community integration training programs, community activities support services, and creative arts programs. This also includes transportation services. If a holiday falls on a Saturday or Sunday, the following Monday is to be deemed the holiday in lieu of the day observed. DDS may adjust the holiday schedule with sufficient notice through a program directive.

*Implementation:* Effective August 1, 2009. Until such time as the Director of DDS issues a program directive adjusting the uniform holidays, the schedule in statute remains in effect. DDS will post a survey on its internet home page to receive input and any recommended changes to the statewide uniform holiday schedule.

### **Parental Fee Program**

TBL Section 27: Welfare and Institutions Code section 4784 was amended to allow for an update to the parental fee schedule effective July 1, 2009. For children placed out-of-home prior to July 1, 2009, DDS is to determine the increase in parental fee above the amount assessed using the fee schedule in effect on June 30, 2009. The fee increase is to be implemented over three years, with one-third of the increase added to the fee on July 1, 2009, one-third on July 1, 2010, and the final third added to the fee on July 1, 2011. Some parents will no longer be required to pay a fee if their incomes are at or below the Federal Poverty Level, and some parents will have their fees reduced. The new parental fee schedule has been updated to reflect the cost of raising a child in California based upon the USDA's Report, "Expenditures on Children by Families" (A copy of the updated fee schedule as of July 1, 2009, is enclosed.)

*Implementation:* DDS will send a letter to all parents currently participating in the parental fee program notifying them of these changes (sample letter enclosed). Regional centers should continue to advise parents of the program and obtain appropriate and complete parental information at the time of intake. Regional centers should also destroy all current Parental Fee information packages that you have in stock. Do not destroy the envelopes provided in the previous packages as they can still

be used for mailing. DDS will send you a new supply of information packages with updated information within a few days of enactment of the TBL, and will also email regional centers the new documents for copying. Regional centers have the responsibility to advise all parents who place their children, ages 0 through 17, in out-of-home placement that they may be liable for payment of the parental fee and are required to submit a Family Financial Statement to the Client Financial Services Section for assessment of their ability to pay within 30 days of the placement. This should be done as part of the IPP process, as appropriate. Regional center employees who work with parents should be trained about the Parental Fee Program and the requirement for parental responsibility under Welfare and Institutions Code section 4782. For parents' reference, DDS' internet home page will be updated with current Parental Fee information and FAQs. If you have any questions, please contact the Parental Fee Program Unit at 1-800-862-0007.

TBL Section 16: Welfare and Institutions Code section 4677 was amended to specify that parental fee schedules shall be adjusted annually, as needed, by DDS.

*Implementation:* No action is needed by regional centers.

### **System-Related Provisions**

#### **Quality Assurance Consolidation**

TBL Sections 5, 7 and 9: Welfare and Institutions Code section 4418.1 was amended to discontinue the current "Mover's Study" effective July 1, 2009, and Life Quality Assessments effective January 1, 2010, and require DDS to implement an improved unified quality assessment system by January 1, 2010, pursuant to section 4571.

Sections 4570 and 4571 were added to the Welfare and Institutions Code, requiring DDS to implement an improved unified quality assessment system. DDS, in consultation with stakeholders, is to identify a valid and reliable quality assurance instrument that includes assessments of consumer and family satisfaction, provision of services, and personal outcomes. The instrument must meet specified criteria, and DDS must contract with the state council to collect data for the quality assurance instrument. The state council must notify the regional center if the information collected reveals any suspected violation of the legal, civil, or service rights of a consumer, or if it determines that the health and welfare of a consumer is at risk. DDS must, in consultation with stakeholders, annually review the data collected from and the findings of the quality assurance instrument described above and accept recommendations regarding additional or different criteria for the quality assurance instrument in order to

assess the performance of the state's developmental services system and improve services for consumers.

*Implementation:* DDS has convened a stakeholder meeting and process. No action is required of regional centers on implementation of this provision.

### **Eliminate Triennial Quality Assurance Review**

TBL Section 11: Welfare and Institutions Code section 4648.1 was amended to repeal the requirement that regional centers perform triennial evaluations of community care facilities, as described in Sections 56046, 56049, 56050, 56051 and 56052 of Title 17 of the California Code of regulations.

*Implementation:* This provision is effective immediately upon the enactment of TBL, which occurred on July 28, 2009.

### **State Plan Amendment**

TBL Section 23: Section 4688.3 was added to the Welfare and Institutions Code to require that the State Department of Health Care Services and DDS shall jointly seek a federal Centers for Medicare and Medicaid Services' 1915(i) state plan amendment to increase federal financial participation in the delivery of regional center services.

*Implementation:* This provision is effective immediately upon the enactment of TBL, which occurred on July 28, 2009. DDS will keep regional centers informed as the State Plan Amendment progresses.

### **Porterville Developmental Center (PDC) Maximum Occupancy**

TBL Section 28: Welfare and Institutions Code section 7502.5 was amended to specify that the total number of developmental center residents in the secure treatment facility at PDC, including those residents receiving services in the PDC transition treatment program is not to exceed 297.

*Implementation:* This provision is effective immediately upon the enactment of TBL, which occurred on July 28, 2009.

TBL also requires DDS to report to the Legislature during budget hearings for FY 2010-11 regarding the effect on the developmental service system of the specific cost containment measures passed in 2009. DDS will be monitoring compliance with and implementation of these new provisions of law through data analysis and other mechanisms. For instance, DDS will monitor expenditures under service codes used for the purchase of non-medical therapies, camp, educational services and social

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recreation activities (e.g. service codes 693, 694, 106, 850, 680, 678, 015, 676, 678, 107, 106, 072, 084). Likewise, in regional center's efforts to implement and comply with the TBL, application of the law can not be looked at solely through the use of service codes but must also take into consideration the purpose of the service being purchased by the regional center as reflected on the IFSP/IPP.

To assist consumers/families and regional center communities at-large in understanding the \$334 million reduction in the state budget for regional centers and the resulting changes to the service delivery system, enclosed is a letter for regional centers to attach to their Notice of Action letters to impacted consumers/families, if they so choose. This letter will provide background information, a high level summary of the TBL including information on exemptions, a reference to DDS' internet home page where they can find additional information, and the reminder that they can contact their service coordinator to discuss their needs further.

We realize that these are difficult and challenging times for all. We appreciate the work that you and your staff do and recognize that there is much regional centers will need to do to carry out the statutory changes to the Lanterman Act and Early Start Program.

Thank you for your cooperation and continued work on behalf of consumers and families.

Sincerely,

ORIGINAL SIGNED BY BRIAN WINFIELD FOR

RITA WALKER  
Deputy Director  
Community Operations Division

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cc: Robert Baldo, ARCA

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