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TO: REGIONAL CENTER EXECUTIVE DIRECTORS AND BOARD PRESIDENTS

SUBJECT: JUNE 2019 TRAILER BILL LANGUAGE AFFECTING REGIONAL CENTERS

The purpose of this correspondence is to provide a summary of the recently enacted Developmental Services Budget Trailer Bill, SB 81 (Chapter 28, Statutes of 2019), which directly impacts regional centers, developmental centers and the developmental disabilities services system. The following is a list of areas affected by, or new requirements resulting from, SB 81, the related bill sections and pages where statutory changes are summarized in this correspondence:

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The changes made by SB 81 became effective June 27, 2019, unless otherwise specified. While this correspondence provides a high-level summary of SB 81, a complete and thorough review of the bill is imperative for regional centers' statutory compliance. Clarifying information regarding implementation of SB 81 is included in several areas below. Regional centers should continue to educate their communities regarding these legislative changes.

Copayments, Coinsurance and Deductibles for Early Start Consumers

TBL Section 24: Welfare and Institutions Code[1] Section 4659.1 was amended to state if a service or support provided pursuant to a consumer's individualized family service plan under the California Early Intervention Services Act (Title 14, Government Code) is paid for, in whole or in part, by the health care service plan or health insurance policy of the consumer's parent, guardian, or caregiver, the regional center must pay any applicable copayment, coinsurance, or deductible associated with the service or support for which the parent, guardian, or caregiver is responsible if both of the following conditions are met:

1. The consumer is covered by their parent's, guardian's, or caregiver's health care service plan or health insurance policy.
2. There is no other third party having liability for the cost of the service or support, as provided in Section 4659(a) and Article 2.6 (commencing with Section 4659.10).

Implementation: Consideration of a family's annual income is no longer a requirement when paying for copayments, coinsurance or deductibles pursuant to Section 4659.1(c). Regional centers must use the following service sub codes for copayments, coinsurance and deductibles.

- *Copayments: sub code must begin with 'ICP'*
- *Coinsurance: sub code must begin with 'ICI'*
- *Deductibles: sub code must begin with 'DEDI'*

To ensure purchases are eligible for federal reimbursement, copayment, coinsurance and deductible purchases must be made using the service code appropriate for the type of service/provider. For example, a copayment for a service provided by a Behavior Analyst must be made using service code 612 and a sub code that begins with 'ICP'. All copayments, coinsurance and deductible purchases must use these service/sub code combinations. Compliance with this section will be monitored through the Department's fiscal audits of regional centers.

Standardized Information Packets

TBL Section 21: Section 4642 was amended to require the Department to create, with stakeholder input, standardized information packets to be provided to any person

[1] All citations are to the Welfare and Institutions Code unless otherwise noted.

seeking services from a regional center. There must be one information packet related to services provided under the California Early Intervention Services Act and another information packet related to services provided under the Lanterman Developmental Disabilities Services Act (Lanterman Act). The information packets must be translated to provide language access, as required by state and federal law, must be available in alternative formats and alternative modes of communication, as required by federal law, and must include, at a minimum, all of the following:

- An overview of the regional center system.
- A resource guide for consumers and their families.
- Information on consumer rights.
- Contact information for the regional center, the Department, the office of clients' rights advocacy and the protection and advocacy agency specified in Division 4.7 (commencing with Section 4900).

Each regional center must distribute the information packets at intake, upon transfer to receiving services under the Lanterman Act, and upon request. Regional centers must begin distributing the information packets within 60 days following the Department providing the information packets and issuing directives regarding the distribution of the information packets. In addition to, and not in lieu of, this requirement, each regional center must post the full content of the most updated information packet on its internet website.

Implementation: The Department will work with stakeholders, including the Association of Regional Center Agencies and Disability Rights California, to obtain input on the development of standardized information packets for Early Start and Lanterman Act services. Additional information is forthcoming.

Individual Program Plan List of Agreed-upon Services and Supports

TBL Section 22: Section 4646 was amended to require an authorized representative of the regional center, at the conclusion of an individual program plan meeting, to provide to the consumer, in written or electronic format, a list of the agreed-upon services and supports, and, if known, the projected start date, the frequency and duration of the services and supports, and the provider. The authorized representative of the regional center must sign the list of agreed-upon services and supports at that time. The consumer, or when appropriate, the consumer's parent, legal guardian, conservator, or authorized representative must sign the list of agreed-upon services and supports prior to its implementation.

The consumer, or when appropriate, the consumer's parent, legal guardian, conservator, or authorized representative, may elect to delay receipt of the list of

agreed-upon services and supports pending final agreement, as described in Section 4646(g). If a final agreement regarding the services and supports to be provided to the consumer cannot be reached at a program plan meeting, then a subsequent program plan meeting must be convened within 15 days, or later at the request of the consumer or, when appropriate, the parents, legal guardian, conservator, or authorized representative or when agreed to by the planning team. The list of the agreed-upon services and supports signed by the authorized representative of the regional center must be provided, in writing or electronically, at the conclusion of the subsequent program plan meeting, and must be provided in the native language of the consumer, or the consumer's parent, legal guardian, conservator, or authorized representative.

Regional centers must provide alternative communication services, including providing copies of the list of services and supports, and the individual program plan in the native language of the consumer or the consumer's family, legal guardian, conservator, or authorized representative, or both, as required by Sections 11135 to 11139.8, inclusive, of the Government Code and implementing regulations.

Implementation: Effective June 27, 2019, a list of agreed-upon services and supports must be provided to the consumer, parent, legal guardian, conservator or authorized representative at the conclusion of each individual program plan meeting, and the list must be signed by a regional center representative and the consumer, parent, legal guardian, conservator or authorized representative prior to implementation.

Regional Center Policies, Guidelines and Assessment Tools

TBL Section 5: Section 4434 was amended to require the Department to collect and review, in addition to purchase of service policies and other policies and guidelines, any assessment tools utilized by regional centers when determining the service needs of a consumer. This section also requires the Department to confirm that purchase of service policies and other policies, guidelines, or assessment tools utilized by regional centers when determining the service needs of a consumer are available to the public, as required by Section 4629.5(b)(5).

TBL Section 17: Section 4629.5 was amended to require each regional center to post on its internet website any policies, guidelines, or regional center-developed assessment tools used to determine the transportation, personal assistant, or independent or supported living service needs of a consumer.

Implementation: The Department will send regional centers a subsequent correspondence by September 30, 2019, regarding the process for collecting and reviewing assessment tools that are utilized when determining the service needs of a consumer.

Protection and Advocacy Agency and Clients' Rights Advocate Internet Website Links

TBL Section 8: Section 4519.2(e) was added to require the Department and each regional center to include on their internet websites a link to the protection and advocacy agency designated pursuant to Division 4.7 (commencing with Section 4900) and the clients' rights advocate contracted with pursuant to Section 15610.20. This posting must be completed no later than March 1, 2020, and must be posted on the home page of the internet websites, or in another standard location determined by the Department.

Implementation: Each regional center must post a link to the Disability Rights California website (www.disabilityrightsca.org) on its home page by March 1, 2020.

Section 4731 Consumers' Rights Complaints and Fair Hearing Requests

TBL Section 8: Section 4519.2(c) and (d) were added, requiring the Department to update the Legislature annually, beginning on January 10, 2020, with the following information:

- The number of complaints filed at each regional center pursuant to Section 4731 for the prior fiscal year, to include the following information:
    - The subject matter of complaints filed.
    - How complaints were resolved.
    - The timeframe within which resolutions to those complaints were provided by the regional center.
    - The number of complaints that were appealed to the Department, their resolution, and the timeframe within which a written administrative decision was issued.
    - Demographic information, as identified by the Department, about consumers on whose behalf the complaint was filed.

  The update must include data for the prior two fiscal years, as available, and must be posted on the Department's internet website.

- The number of fair hearing requests filed pursuant to Section 4710.5 and the number of fair hearing requests resolved or decided during the prior fiscal year for each regional center and statewide, and include the following information:
    - The reason for the fair hearing request aggregated by issue type, as specified by the Department.
    - The number of fair hearing requests resolved or decided by type and average length of time between filing and resolution or disposition of the case, as specified by the Department.
    - The outcome of the resolution, if known.
    - Demographic information, as identified by the Department, about consumers on whose behalf the complaint was filed.

Implementation: The Department receives and maintains some information on Section 4731 complaints and fair hearing requests; however, additional information will be needed from regional centers to meet these requirements. The Department will send regional centers a subsequent correspondence by September 30, 2019, detailing the information that is needed and the process for collecting the information.

Performance Dashboards

TBL Section 11: Section 4572 was amended to require the Department to publish its performance dashboard in a machine-readable format and to require each regional center to publish its own dashboard and to post a link to the Department's dashboard on its internet website. The dashboard must include, but not be limited to, all of the following metrics:

- Recognized quality and access measures.
- Measures to indicate the movement toward compliance with the federal Home and Community-Based Services Waiver rules (CMS 2249-F and CMS 2296-F).
- Measures to evaluate the changes in the number of consumers who work in competitive integrated employment.
- The number of complaints referred to the Department pursuant to Section 4731(c), for every 1,000 consumers served, by each regional center.
- The number of administrative fair hearings held pursuant to Chapter 7, Article 3 (commencing with Section 4710), separated by eligibility and service issues, for individuals ages three and over, for every one thousand consumers served, by each regional center.

Implementation: The Department will work with the Association of Regional Center Agencies to identify measures to be included in the dashboard and how required information will be collected.

Public Meetings on Performance Contract Objectives and Outcomes

TBL Section 16: Section 4629 was amended to require each regional center governing board, beginning May 1, 2020, and annually thereafter, to hold one or more public meetings regarding its prior year's performance contract objectives and outcomes. The meetings may be held separately from meetings held pursuant to Section 4660. The regional center must provide individuals attending these meetings with data and any associated information to facilitate discussion and community input. Regional centers must inform the Department that a meeting has been scheduled at least 30 days prior to the meeting. Notice of the meetings must also be posted on the regional center's internet website at least 30 days prior to the meeting and must be sent to regional center consumers and families and individual stakeholders at least 30 days prior to the meeting.

Each regional center, in holding the meetings, must ensure that the meetings and meeting materials provide language access, as required by state and federal law, and must schedule the meetings at times and locations designed to promote attendance by the public. To encourage participation by diverse language, racial, and ethnic communities, the regional center must consider strategies to promote opportunities for public comment.

Each regional center governing board must report to the Department regarding the outcomes of each of these public meetings within 90 days of the meeting. The report must include, but not be limited to, both of the following:

- Copies of minutes from each meeting and comments obtained from other strategies utilized to provide opportunities for public comment from diverse language, racial, and ethnic communities.
- The regional center's recommendations and a plan to address areas where improvement is needed.

In addition, Section 4629 was amended to stipulate that renewal of each regional center contract with the Department will be contingent upon compliance with the contract, including, but not limited to, the performance objectives *and achievement of sufficient progress towards meeting the requirements of any corrective action plan imposed by the state,* as determined through the Department's evaluation.

Implementation: The Department sent regional centers the 2020 Performance Contract Guidelines on August 12, 2019, including information on the new requirements. See Enclosure A.

National Core Indicators Data and Public Meetings

TBL Section 10: Section 4571 was amended to require each regional center to annually present data collected from, and the findings of, the quality assurance instrument described in Section 4571(b) for that regional center, at a public meeting of its governing board in order to assess the comparative performance of the regional center and identify needed improvements in services for consumers, including, but not limited to, case management services. Notice of this meeting must be posted on the regional center's internet website at least 30 days prior to the meeting and must be sent to regional center consumers and families and individual stakeholders at least 30 days prior to the meeting. The governing board must provide a sufficient public comment period so members of the public may provide comments. Each regional center, in holding the meeting, must ensure that the meeting and meeting materials provide language access, as required by state and federal law.

All regional center-specific reports generated by the Department pursuant to this requirement must be made publicly available on the regional center's internet website in a machine-readable format, but must not contain any personal identifying information about any person assessed. Within 60 days following its annual presentation, each regional center must submit a report to the Department regarding its implementation of the requirements of this section. The report must include, but not be limited to, both of the following:

- Copies of the presentation, minutes from the meeting, and attendee comments.
- The regional center's recommendations and plans to use the information to address regional center priorities, strategic directions to improve specific areas of performance, or both.

Implementation: The Department will continue to provide this information to regional center executive directors and remains available to regional centers to provide additional information or to answer questions regarding regional center-specific reports generated by the Department pursuant to this section.

Regional Center Board of Directors Composition, Attorneys and Meetings with the Department

TBL Section 12: Section 4622 was amended to require the membership of the regional center governing board to include members with management or board governance expertise and members with financial expertise by August 15, 2020. Board governance expertise may not be acquired solely by serving on a regional center board.

TBL Section 13: Section 4622.5 was amended to state if the composition of the governing board is not in compliance with Section 4622, the governing board must submit a plan to the Department with its board composition documentation setting forth how and, in as expeditious a manner as possible, when the board will come into compliance, in part or in whole, with Section 4622.

Implementation: The Department will monitor compliance with these requirements through the board composition surveys due to the Department by August 15 of each year. Beginning with the 2020 board composition survey, the Department will include fields to indicate which members have management or board governance expertise and which members have financial expertise.

TBL Section 14: Section 4625.6 was added to stipulate that an attorney retained or employed by the governing board to provide legal services must not be an employee of the regional center.

Implementation: These provisions became effective with the passage of SB 81 on June 27, 2019.

TBL Section 15: Section 4625.7 was added to require the governing board to meet with representatives of the Department upon a request by the Director of the Department and, if requested, the board must exclude regional center employees from the meeting. The governing board must meet with the Department's representatives without preconditions for the meeting and at a time and date determined by the Department. Not infringing on the Department's authority otherwise provided in this section, at the Department's discretion, efforts must be made to meet with a governing board of a regional center at a mutually agreed-upon time, date, and place, with the goal of promoting attendance by board members.

Service Provider Corrective Action Plans and Sanctions

TBL Section 20: Section 4640.9 was added to require each regional center, beginning July 1, 2020, to provide to the Department a copy of any corrective action plans and sanctions issued to a service provider, which must include the name of the service provider, the type of action taken, and the date of action. Copies of corrective action plans and sanctions must be submitted quarterly, no later than 45 days following the end of each fiscal quarter. The Department must provide a copy of all corrective action plans and sanctions to the protection and advocacy agency specified in Division 4.7 (commencing with Section 4900) within 30 days of its request. The Department must consult with regional centers and the protection and advocacy agency on the process for increasing consumer and family access to the information contained in corrective action plans and sanctions.

Implementation: The Department will send regional centers a subsequent correspondence outlining the process for submitting service provider corrective action plans and sanctions to the Department. The Department will consult with Disability Rights California and the Association of Regional Center Agencies on how information in corrective action plans and sanctions should be made available to the public going forward.

Department Directives to Regional Centers

TBL Section 18: Section 4639.6 was added, stating that the Director of the Department may issue directives to regional centers as the Director deems necessary to protect consumer rights, health, safety, or welfare, or in accordance with Section 4434. The regional center must comply with any directive issued by the Director pursuant to this section. The directive may not be in conflict with existing statutes or regulations.

TBL Section 8: Section 4519.2(f) was added, requiring the Department, on and after October 1, 2019, to post on its internet website all new directives that it issues to regional centers.

Uniform Holiday Schedule Suspension

TBL Section 28: Section 4692 was amended to suspend the Uniform Holiday Schedule provisions until December 31, 2021. Section 4692(f)(2) states, if, in the determination of

the Department of Finance, the estimates of General Fund revenues and expenditures that accompany the May Revision, which is required to be released by May 14, 2021, contain projected annual General Fund revenues that exceed projected annual General Fund expenditures in the 2021–22 and 2022–23 fiscal years by the sum total of General Fund moneys appropriated for all programs subject to suspension on December 31, 2021, pursuant to the Budget Act of 2019 and the bills providing for appropriations related to the Budget Act of 2019, then the suspension of this section shall continue beyond December 31, 2021. It is the intent of the Legislature to consider alternative solutions to facilitate the continued suspension of this section if Section 4692(f)(2) does not apply.

Implementation: Uniform Holiday Schedule provisions are suspended until December 31, 2021.

Specialized Caseload Ratio

TBL Section 19: Section 4640.6 was amended to require an average service coordinator-to-consumer ratio of 1-to-25 for consumers with complex needs. For the purposes of this requirement, a "consumer with complex needs" means a consumer who is any of the following:

1. Receiving regional center-funded mobile crisis services by a Department-approved vendor, or has received those services within the past six months.
2. Receiving state-operated crisis assessment stabilization team services, or has received those services within the past six months.
3. Placed in a community crisis home, as defined in Section 4698.
4. Placed in an acute crisis home operated by the Department, pursuant to Section 4418.7.
5. Placed in a locked psychiatric setting or has been placed in a locked psychiatric setting in the past six months.
6. Placed in an institution for mental disease, as described in Part 5 (commencing with Section 5900) of Division 5.
7. Placed out of state as a result of appropriate services being unavailable within the state, pursuant to Section 4519.
8. Placed in a county jail and eligible for diversion pursuant to Chapter 2.8 (commencing with Section 1001.20) of Title 6 of Part 2 of the Penal Code or found incompetent to stand trial as described in Section 1370.1 of the Penal Code.
9. A person the Department has determined cannot be safely served in a developmental center, as described in Section 6510.5.

The service coordinator-to-consumer ratio shall not be authorized for a consumer for more than 12 months after the consumer is no longer receiving the services described in 1 or 2, above; after the consumer is no longer placed in a facility described in 3, 4, 5, 6, 7 or 8, above; or after the Department has made the determination described in 9, above; unless an extension is granted. An extension must be based on a new and complete

comprehensive assessment of the consumer's needs. An extension may be granted one time, and may not exceed six months.

Implementation: The Department will work with the Association of Regional Center Agencies to identify individuals who can be counted under each category based on regional center purchase of service data, the Client Master File and other sources. The Department will send regional centers a subsequent correspondence with further direction on implementation of the specialized caseload ratio and will include this category in the annual caseload ratio survey, beginning with the March 2020 survey.

Home and Community-Based Services Final Rule Compliance Data

TBL Section 8: Section 4519.2(b) was added, requiring each regional center to post the following information on its internet website in a format determined by the Department no later than April 1, 2020, and to update the information no less frequently than every six months until the Department determines that statewide compliance with the federal Home and Community-Based Services (HCBS) Final Rule has been met, or January 1, 2025, whichever is earlier:

- The number of providers identified as needing assessment for HCBS compliance, broken down by provider type, as defined by the Department.
- The number of providers within each provider type that have been inspected or reviewed for HCBS compliance.
- The number of providers within each provider type that have been determined to be HCBS compliant.
- The number of providers within each provider type that have been determined not to be HCBS compliant and the reason for lack of compliance.
- The number of providers, broken down by provider type, that have been identified as presumed to have the qualities of an institutional setting, as described in Title 42, Code of Federal Regulations Sections 441.301(c)(5)(v) and 441.710(a)(2)(v).

The Department must provide this information to the Legislature as statewide data and for each regional center, no later than May 1, 2020, and must post that summary on its internet website.

Implementation: The Department will work with the Association of Regional Center Agencies to identify key indicators of compliance, develop a format, determine the process for compiling this information, and will post these details on its internet website for public comment and input prior to finalizing. A subsequent correspondence will be sent to regional centers once the details have been finalized.

Service Provider Rate Increases

TBL Section 27: Section 4691.12 was added to state, notwithstanding any other law or regulation, to the extent funds are appropriated in the annual Budget Act for this purpose, and contingent upon the approval of federal funding, the Department shall provide a rate increase effective January 1, 2020, for all of the following services:

1. Specified services for which rates are set by the Department or through negotiations between the regional centers and service providers.
2. Rates paid for supported employment services, as specified in Section 4860(a) and (b).
3. Vouchered community-based services, as specified in Section 4688.21(c)(7).

The rate increase shall be applied to rates in effect on December 31, 2019, less the amount of any one-time rate increases for developmental services, as authorized in Chapter 29, Statutes of 2018. The rate increase shall be applied as a percentage, and this percentage shall be the same for all providers within each service category, as established by the Department and set forth in the supplemental rate increase schedule posted on the Department's internet website.

The rate increase provided in Section 4691.12(a) shall not apply to those services for which rates are determined by other entities, including, but not limited to, the State Department of Health Care Services or the State Department of Social Services, or are usual and customary.

Section 4691.12(b)(1) states that implementation of these provisions shall be suspended on December 31, 2021, unless Section 4691.12(b)(2) applies. Section 4691.12(b)(2) states, if, in the determination of the Department of Finance, the estimates of General Fund revenues and expenditures that accompany the May Revision, which is required to be released by May 14, 2021, contain projected annual General Fund revenues that exceed projected annual General Fund expenditures in the 2021–22 and 2022–23 fiscal years by the sum total of General Fund moneys appropriated for all programs subject to suspension on December 31, 2021, pursuant to the Budget Act of 2019 and the bills providing for appropriations related to the Budget Act of 2019, then the implementation of this section shall not be suspended. If these provisions are suspended pursuant to Section 4691.12(b)(1), it is the intent of the Legislature to consider alternative solutions to facilitate the continued implementation of the rate increases described in Section 4691.12(a).

Implementation: Information on service provider rate increases is posted on the Department's internet website at www.dds.ca.gov/VendorInfo/SRI.cfm. The Department will submit a request for approval of matching federal funds to the Centers for Medicare

and Medicaid Services (CMS), following the 30-day public notice and comment period beginning August 2, 2019, and ending September 1, 2019. CMS will have approximately 90 days to review the request. Contingent upon CMS approval, the rate increase will be implemented effective January 1, 2020. The Department will provide updates on its internet website at www.dds.ca.gov/waiver/index.cfm, and will send regional centers correspondence regarding implementation of the rate increases once federal approval is obtained.

Enhanced Behavioral Supports Homes

TBL Sections 3, 25 and 26: Sections 4684.82 and 4684.87, and Health and Safety Code (HSC) Section 1567.70 were amended to extend the sunset date for provisions regarding enhanced behavioral supports homes from January 1, 2020, to January 1, 2021, at which time the provisions will be repealed, unless a later enacted statute, that is enacted before January 1, 2021, deletes or extends that date.

TBL Section 2: HSC section 1567.62 was amended to correct a statutory citation.

Community Crisis Homes

TBL Section 1: HSC Section 1180.4 was amended to include community crisis homes as a facility that cannot use physical restraint or containment for more than 15 consecutive minutes. The Department may, by regulation, authorize an exception to the 15-minute maximum duration if necessary to protect the immediate health and safety of residents or others from risk of imminent serious physical harm and the use of physical restraint or containment conforms to the facility program plan approved by the Department pursuant to Section 4698(d).

TBL Section 30: Section 4698 was amended to require the Department to use community placement plan funds to establish community crisis homes for children, and to specify that community crisis homes shall serve individuals who meet all of the following criteria:

1. The child or adult has one or more developmental disabilities.
2. The child or adult receives regional center services.
3. The child or adult requires crisis intervention services.
4. The child or adult would otherwise be at risk of admission to the acute crisis center at Fairview Developmental Center or Sonoma Developmental Center, a Department-operated facility, an out-of-state placement, a general acute hospital, an acute psychiatric hospital, or an institution for mental disease, as described in Division 5, Part 5 (commencing with Section 5900).

Section 4698(d)(1) requires the Department, no later than March 1, 2020, to develop guidelines regarding the use of restraint or containment in community crisis homes, which must be maintained in the facility program plan and plan of operation. In the development of these guidelines, the Department must consult with both of the following:

1. The appropriate professionals regarding the use of restraint or containment in community crisis homes.
2. The protection and advocacy agency described in Section 4900(i) regarding appropriate safeguards for the protection of clients' rights.

The requirements of Section 4698(d)(1) do not apply to community crisis homes that are certified and licensed prior to March 1, 2020, or prior to the adoption of the guidelines, whichever is sooner. However, these homes shall meet the requirements of Section 4698(d)(1) no later than 30 days following adoption of the guidelines.

A community crisis home must include in its facility program plan a description of how it will ensure physical restraint or containment will not be used as an extended procedure in accordance with Section 4698, HSC Section 1180.4(h), and any other applicable law or regulation.

TBL Section 4: HSC Section 1567.81 was amended to authorize licensing of group homes as community crisis homes. Placements of dual agency clients into community crisis homes that are licensed as group homes are subject to the placement duration limitations described in Sections 319.2, 319.3, and 361.2(e)(9)(A) and (B). For the purpose of this article, dual agency clients are foster children in temporary custody of the child welfare agency under Section 319 or under the jurisdiction of the juvenile court pursuant to Sections 300, 450, 601, or 602, who are also either a consumer of regional center services, or who are receiving services under the California Early Intervention Services Act, but who are under three years of age and have not yet been determined to have a developmental disability.

Implementation: The Department will work with the California Department of Social Services and stakeholders in a public process to draft and promulgate regulations regarding certification and licensing of group homes as community crisis homes for children. The Department will work with regional centers, through the Community Placement Plan/Community Resource Development Plan process, on the development of community crisis homes for children. The Department will consult with Disability Rights California and appropriate professionals to develop guidelines regarding use of physical restraint and containment in community crisis homes and will send the guidelines to regional centers and post them on the Department's internet website when finalized.

Institutions for Mental Disease

TBL Section 23: Section 4648 was amended to change the conditions for which regional centers may purchase new residential services from, or place a consumer in, an institution for mental disease (IMD). Effective January 1, 2020, the exceptions in Section 4648(a)(9)(C)(ii) regarding IMD placements due to emergencies will no longer apply, and the prohibition in Section 4648(a)(9)(C)(i) will not apply to acute crises when the following conditions are met:

1. The regional center prepares an assessment for inclusion in the consumer's file detailing all considered community-based services and supports, including, but not limited to, rate adjustments as provided by law, supplemental services as set forth in Section 4648(a)(9)(F), emergency and crisis intervention services as set forth in Section 4648(a)(10), and community crisis homes pursuant to Division 4.5, Chapter 6, Article 8 (commencing with Section 4698), and an explanation of why those options could not meet the consumer's needs.
2. The director of the regional center confirms that there are no community-based options that can meet the consumer's needs.

For purposes of this section, "acute crisis" is defined as a situation in which the consumer meets the criteria of Section 6500 and, as a result of the consumer's behavior, all of the following are met:

1. There is imminent risk for substantial harm to the consumer or others.
2. The service and support needs of the consumer cannot be met in the community, including with supplemental services, as set forth in Section 4648(a)(9)(F), and emergency and crisis intervention services, as set forth in Section 4648(a)(10).
3. Due to serious and potentially life-threatening conditions, the consumer requires a specialized environment for crisis stabilization.

When admission occurs due to an acute crisis, all of the following applies:

1. If the regional center does not expect the consumer to transition back to a community setting within 72 hours, or if the consumer does not transition back to a community setting within 72 hours, the regional center must do both of the following:
    a. No later than 10 calendar days from the date the consumer is placed in the IMD, complete any documentation necessary to support the filing of a petition for commitment pursuant to Division 6, Part 2, Chapter 2, Article 2 (commencing with Section 6500), and request the person authorized to present allegations pursuant to Section 6500 file a petition for commitment.

b. Complete a comprehensive assessment in coordination with the IMD staff. The comprehensive assessment must include the identification of the services and supports needed for crisis stabilization and the timeline for identifying or developing the services and supports needed to transition the consumer back to a community setting. The regional center must immediately submit a copy of the comprehensive assessment to the committing court. Immediately following the assessment, and not later than 30 days following admission, the regional center and the IMD must jointly convene an individual program plan meeting to determine the services and supports needed for crisis stabilization and to develop a plan to transition the consumer into the community.

2. If transition is not expected within 90 days of admission, an individual program plan meeting must be held to discuss the status of the transition and to determine if the consumer is still in need of crisis stabilization.

3. A consumer may not reside in an IMD longer than six months before being placed into a community living arrangement, unless, prior to the end of the six months, all of the following have occurred:
    a. The regional center has conducted an additional comprehensive assessment based on current information and determines that the consumer continues to be in an acute crisis.
    b. The individual program planning team has developed a plan that identifies the specific services and supports necessary to transition the consumer into the community, and the plan includes a timeline to obtain or develop those services and supports.
    c. The committing court has reviewed and, if appropriate, extended the commitment.

4. A consumer's placement at an IMD shall not exceed one year unless both of the following occur:
    a. The regional center demonstrates significant progress toward implementing the plan to transition the consumer into the community.
    b. Extraordinary circumstances exist beyond the regional center's control that have prevented the regional center from obtaining those services and supports within the timeline based on the plan.

    If both of these circumstances exist, the regional center may request, and the committing court may grant, an additional extension of the commitment, not to exceed 30 days.

5. IMD staff shall assist the consumer with transitioning back to the consumer's prior residence, or an alternative community-based residential setting, within the timeframe described in Section 4648(a)(9)(C).

The Department must monitor placements pursuant to Section 4648(a)(9)(C) and subsequent transitions back to community-based settings.

TBL Section 31: Section 6500(c)(3) was added to state that an order of commitment made pursuant to Division 6, Part 2, Chapter 2, Article 2, on or after January 1, 2020, with respect to the admission to an IMD, as described in Section 4648(a)(9)(C), shall expire automatically six months after the earlier of the order of commitment pursuant to this section, the order of a placement in an IMD pursuant to Section 6506, or the date the regional center placed the individual in the IMD, unless the regional center notifies the court in writing of the need for an extension. The required notice must state facts demonstrating that the individual continues to be in acute crisis, as defined in Section 4418.7(d)(1), and the justification for the requested extension, and must be accompanied by the comprehensive assessment and plan described in Section 4648(a)(9)(C)(v).

An order granting an extension shall not extend the total period of commitment beyond one year, including a placement in an IMD pursuant to Section 6506. If, prior to expiration of one year, the regional center notifies the court in writing of facts demonstrating that, due to circumstances beyond the regional center's control, the placement cannot be made prior to expiration of the extension, and the court determines that good cause exists, the court may grant one further extension of up to 30 days. The court may also issue any orders the court deems appropriate in order for necessary steps to be taken to ensure that the individual can be safely and appropriately transitioned to the community in a timely manner. The required notice must state facts demonstrating that the regional center has made significant progress implementing the plan described in Section 4648(a)(9)(C)(v) and that extraordinary circumstances exist beyond the regional center's control that have prevented the plan's implementation. This paragraph does not preclude the individual or any person acting on their own behalf from making a request for release pursuant to Section 4800, or counsel for the individual from filing a petition for habeas corpus pursuant to Section 4801. Notwithstanding Section 4801(a), for purposes of this paragraph, judicial review shall be in the superior court of the county that issued the order of commitment pursuant to this section.

Implementation: Pursuant to these requirements, effective January 1, 2020, no new IMD placement may exceed 13 months. The Department will send regional centers a subsequent correspondence regarding the requirements of this section, and how placements and transitions will be tracked.

Developmental Center and Community Facility Admissions

TBL Section 32: Section 6509 was amended to state that a person who is committed by a court to the Department for suitable treatment and habilitation services may be placed, on or after July 1, 2019, at the acute crisis center at Porterville Developmental Center, if the person meets the criteria for admission pursuant to Section 7505(a)(7).

TBL Section 33: Section 7505 was amended to expand the conditions for which a person may be admitted to developmental centers and Canyon Springs Community Facility, as follows:

- Developmental Center Right of Return: Section 7505(a)(6) states that a person may return to a developmental center if the person is exercising the right of return described in Section 4508 on or before June 30, 2021. Prior to admission pursuant to this paragraph, the regional center must prepare an assessment for inclusion in the consumer's file detailing all considered community-based services and supports, including, but not limited to, rate adjustments as provided by law, supplemental services as set forth in Section 4648(a)(9)(F), emergency and crisis intervention services as set forth in Section 4648(a)(10), community crisis home services pursuant to Division 4.5, Chapter 6, Article 8 (commencing with Section 4698), and an explanation of why those options could not meet the consumer's needs. Prior to admission, the Director of the Department or the director's designee shall certify that there are no community-based options that can meet the consumer's needs.

  When a person is admitted pursuant to Section 7505(a)(6), the regional center must notify the clients' rights advocate, as described in Section 4433, of the admission. A comprehensive assessment must be completed by the regional center in coordination with developmental center staff. The comprehensive assessment must include the identification of the services and supports needed for stabilization and the timeline for identifying or developing the services and supports needed to transition the consumer back to a community setting. Immediately following the comprehensive assessment, and not later than 30 days following admission, the regional center and staff at the developmental center must jointly convene an individual program plan meeting to determine the services and supports needed for crisis stabilization and to develop a plan to transition the consumer into community living pursuant to Section 4418.3. The clients' rights advocate for the regional center must be notified of the individual program plan meeting and may participate in the individual program plan meeting unless the consumer objects on their own behalf.

Notwithstanding Section 4508, the population of consumers admitted pursuant to this paragraph shall not exceed five. An admission pursuant to this paragraph shall not extend beyond June 30, 2022.

Implementation: If the regional center determines a community placement of a consumer who was placed on a provisional placement from a developmental center is at risk of failing, and the consumer is within the 12-month provisional placement period, the regional center must notify the appropriate regional resource development project. The regional resource development project will immediately arrange for an assessment of the situation, including visiting the consumer. The assessment must include determining barriers to continued successful integration, supports that can be provided to maintain the consumer in their community home, and additional recommendations pertinent to the situation. If the regional resource development project determines based on the assessment that the consumer cannot be safely served in the community, the Director of the Department or the director's designee will be notified. Prior to consideration of an admission to a state operated facility, the Director of the Department or the director's designee must certify that there are no community-based options that can meet the consumer's needs.

- Porterville Developmental Center Court Commitment: Section 7505(a)(7) states that a person may be admitted to Porterville Developmental Center if that person is committed by a court to Porterville Developmental Center, pursuant to Division 6, Part 2, Chapter 2, Article 2 (commencing with Section 6500), due to an acute crisis, as described in Section 4418.7. The population of consumers admitted pursuant to this paragraph shall not exceed 10. An admission pursuant to this paragraph shall not extend beyond December 31, 2020, or upon the opening of the state-operated community acute crisis homes approved for development in the Budget Act of 2019.

  Implementation: If the regional center determines the community placement of a consumer is at risk of failing, and the consumer meets the acute crisis criteria as stated in Section 4418.7, the regional center may submit a request to the state operated acute crisis services at StarReferral@dds.ca.gov. The request must include the following information:
  - *Cover letter with a description of the acute crisis situation, all alternatives that have been used to support the individual in the community including specific details on what resources have been attempted, other regional center resources that have been explored and the outcomes, the date the statewide specialized resource services database was accessed and the outcome, reflection that the regional center executive director has*

approved the referral for crisis admission, and which Stabilization, Training, Assistance and Reintegration (STAR) home is to be considered (Southern STAR, Northern STAR or Desert STAR).
- o *Completed DS 2518*
- o *Current psychological, psychiatric and/or behavioral assessment*
- o *Current Medi-Cal condition review (if the client's Medi-Cal status is an issue)*
- o *Current Client Development Evaluation Report*
- o *Most recent individual program plan*
- o *The date the client became eligible for regional center services*
- o *Any additional pertinent information that would assist in the assessment process*

The appropriate STAR/regional resource development project will complete an assessment prior to consideration of an admission and the findings will be forwarded to the Director of the Department or the director's designee. Prior to any admission, the Director of the Department or the director's designee must certify that there are no community-based options that can meet the consumer's needs.

- Canyon Springs Community Facility Court Commitment: Section 7505(a)(5) was amended to state that a person who is currently admitted to either an acute psychiatric hospital or an acute crisis facility pursuant to Division 6, Part 2, Chapter 2, Article 2 (commencing with Section 6500) due to an acute crisis, as defined in Section 4418.7(d)(1), but who requires continued treatment to achieve stabilization and successful community transition, may be committed by a court on or before June 30, 2021, to Canyon Springs Community Facility pursuant to Division 6, Part 2, Chapter 2, Article 2 (commencing with Section 6500).

  Prior to admission pursuant to this paragraph, the regional center must prepare an assessment for inclusion in the consumer's file detailing all considered community-based services and supports, including, but not limited to, rate adjustments as provided by law, supplemental services as set forth in Section 4648(a)(9)(F), emergency and crisis intervention services as set forth in Section 4648(a)(10), community crisis home services pursuant to Division 4.5, Chapter 6, Article 8 (commencing with Section 4698), and an explanation of why those options could not meet the consumer's needs. Prior to admission, the Director of the Department or the director's designee must certify that there are no community-based options that can meet the consumer's needs.

When a person is admitted, the regional center must notify the clients' rights advocate, as described in Section 4433, of the admission. A comprehensive assessment must be completed by the regional center in coordination with Canyon Springs Community Facility staff. The comprehensive assessment must include the identification of the services and supports needed for stabilization and the timeline for identifying or developing the services and supports needed to transition the consumer back to a community setting. Immediately following the comprehensive assessment, and not later than 30 days following admission, the regional center and staff at Canyon Springs Community Facility must jointly convene an individual program plan meeting to determine the services and supports needed for crisis stabilization and to develop a plan to transition the consumer into community living pursuant to Section 4418.3. The clients' rights advocate for the regional center must be notified of the individual program plan meeting and may participate in the individual program plan meeting unless the consumer objects on their own behalf.

The population of consumers admitted pursuant to Section 7505(a)(5) shall not exceed five. An admission shall not extend beyond June 30, 2022.

For purposes of Section 7505(a)(5), "acute psychiatric hospital" means a facility as defined in HSC Section 1250(b), including an IMD.

Implementation: If the regional center determines that a consumer who is currently in either an acute psychiatric hospital or an acute crisis facility requires continued treatment to achieve stabilization and successful community transition, the regional center may submit a request to the state operated acute crisis services at StarReferral@dds.ca.gov. The request must include the following information:

- *An assessment detailing all considered community-based services and supports, including, but not limited to, rate adjustments as provided by law, supplemental services as set forth in Section 4648(a)(9)(F), emergency and crisis intervention services as set forth in Section 4648(a)(10), and community crisis home services pursuant to Division 4.5, Chapter 6.*
- *Completed DS 2518*
- *Current psychological, psychiatric and/or behavioral assessment*
- *Current Medi-Cal condition review (if the client's Medi-Cal status is an issue)*
- *Current Client Development Evaluation Report*

- *Most recent individual program plan*
- *The date the client became eligible for regional center services*
- *Any additional pertinent information that would assist in the assessment process*

The Canyon Springs team/regional resource development project will complete an assessment prior to consideration of an admission and the findings will be forwarded to the Director of the Department or the director's designee. Prior to any admission, the Director of the Department or the director's designee must certify that there are no community-based options that can meet the consumer's needs.

Notification to the Clients' Rights Advocate

TBL Section 29: Section 4696.3 was added to require regional centers to notify the clients' rights advocate, as described in Section 4433, of all consumers placed on an involuntary psychiatric hold or in a Lanterman-Petris-Short conservatorship pursuant to Section 5250, 5260, 5270.10, 5300, or 5350.

TBL Section 31: Section 6500 was amended to require the regional center to inform the clients' rights advocate, as described in Section 4433, when a petition for commitment is filed under this section and when a petition expires.

Safety Net Plan Update

TBL Section 6: Section 4474.16 was added to require the Department, on or before January 10, 2020, to submit to the Legislature an updated version of the safety net plan originally submitted pursuant to Section 4474.15(a). The updated plan must be developed in consultation with stakeholders and must evaluate the progress made to create a safety net, identify the further areas the stakeholder community suggests evaluating, and recommendations from the stakeholder community, and must consider new models of care for individuals whom private sector vendors cannot or will not serve.

Implementation: The Department will schedule meetings in summer and fall 2019 to consult with and obtain input from stakeholders, including consumers and families, the Developmental Services (DS) Task Force – Safety Net Workgroup, Disability Rights California, regional centers and others to update the Safety Net Plan. The DS Task Force – Safety Net Workgroup is scheduled to meet on August 22, 2019.

Report to the Legislature on Indicators to Track the Delivery of Services

TBL Section 8: Section 4519.2(a) was added to require the Department, through the DS Task Force, to identify key indicators to track the regional center system's delivery of services. These indicators must include both local and statewide measures and must

include a recommendation for analysis and follow-up of any concerning trends, as well as a plan for reporting of best practices for use statewide. The Department, with stakeholder input, must also identify recommendations for measuring and improving outcomes for consumers. Goals for system improvement include enhancement of customer service for consumers and their families, facilitation of enhanced communication between regional centers and the state, and identification and dissemination of best practices for service providers. The Department must report these recommended indicators, best practices and recommendations for analysis to the Legislature no later than January 10, 2021.

Implementation: The Department held a DS Task Force meeting in July 2019 to introduce a reorganization effort to enhance membership and focus on TBL requirements. This includes a new membership application, the inclusion of additional representation to enhance the diversity of the DS Task Force, and restructuring existing DS Task Force Workgroups into stand-alone DS Workgroups looking at various subjects, to include recommendations to improve quality assurance and regional center transparency and improving outcomes.

System Reforms Stakeholder Meetings

TBL Section 9: Section 4519.4 was added to require the Department, beginning in the summer of 2019, to consult with a broad and balanced group of stakeholders, including, but not limited to, representatives of the DS Task Force, the Rates Workgroup of the DS Task Force, legislative staff from the fiscal and relevant policy committees of the Legislature, the Legislative Analyst's Office, the Association of Regional Center Agencies, the State Council on Developmental Disabilities, the Department of Rehabilitation, and Disability Rights California to discuss system reforms, including fiscal reforms, to better serve consumers with developmental disabilities. The focus of this discussion shall be on how to create a sustainable, innovative, cost-effective, consumer-focused, and outcomes-based service delivery system.

For purposes of implementing this section, the Department must do all of the following:

- Consider a wide variety of perspectives of consumers, families, and service providers to discuss the potential outcomes associated with different approaches to system reform.
- Engage with consumers, families, and service providers across different geographic regions of the state, including urban and rural areas, and from diverse racial and ethnic backgrounds, consumer age groups, consumer diagnoses, and service categories.
- Identify key consumer outcomes and measurable targets to be achieved through these reforms, as informed by the stakeholder process.

- Evaluate compliance with federal rules relating to home and community-based services, and how the Department plans to redesign services that are not compliant with these rules.
- Discuss how feedback may be collected about the reforms, and how this information may be used to make changes to, and adapt, the system over time.

The Department must report on the progress of these efforts during the 2020-21 budget hearing process. By October 1, 2019, the Department must post to its internet website a summary of public comments, departmental responses to those comments, and any appropriate and necessary changes to the rate models contained in the rate study, submitted pursuant to Section 4519.8.

Implementation: The Department held a DS Task Force meeting in July 2019 to introduce a reorganization effort to enhance membership and focus on TBL requirements. This includes a new membership application, the inclusion of additional representation to enhance the diversity of the DS Task Force, and restructuring existing DS Task Force Workgroups into stand-alone DS Workgroups looking at various subjects, to include system and fiscal reforms, outcome measures, compliance with federal home and community-based services rules, and the rate study.

Quarterly Briefings to the Legislature

TBL Section 7: Section 4474.17 was added to require the Department, beginning after January 1, 2020, to provide the Legislature, in its quarterly briefings with the Department, information on some or all of the following topics:

- Consumer health and safety, including safety net and crisis services.
- The person-centered approach to planning, coordinating, delivering, and receiving services, including caseload ratio updates, compliance with home- and community-based services rules, competitive integrated employment, and housing supports.
- Quality outcomes for consumers.
- Efforts to identify and reduce disparities in regional center services.
- Community development through community placement plans and community resource development plans, by regional center, and difficulties or issues in the provision of services or development of resources.
- Implementation of any rate changes pending and being implemented.
- Status, efforts, and outcomes related to the Department's headquarters reorganization structure.
- Regional center accountability, transparency, and oversight efforts.

If you have any questions regarding this correspondence, please contact me or LeeAnn Christian at (916) 653-3208 or leeann.christian@dds.ca.gov.

Sincerely,

Original signed by:

BRIAN WINFIELD
Chief Deputy Director

Enclosure

cc: Regional Center Board Members via Board Presidents
Regional Center Administrators
Regional Center Community Services Directors
Regional Center Directors of Consumer Services
Association of Regional Center Agencies
Disability Rights California