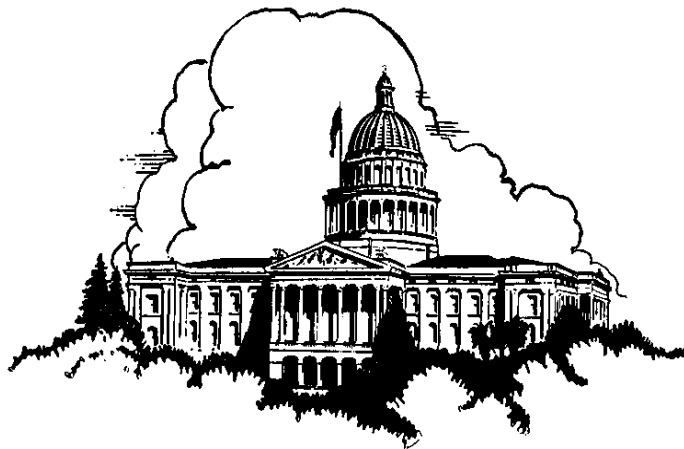


1999 LEGISLATIVE SESSION

IMPACT
OF

*AB 359, AB 1106 AND AB 1107
ON SERVICES FOR PEOPLE WITH
DEVELOPMENTAL DISABILITIES*



INTRODUCTION

During the 1999 Legislative session, provisions of the Welfare and Institutions Code were amended, deleted or added by three pieces of legislation as follows:

- AB 1106 (Chapter 369, Statutes of 1999) (Aroner-Committee on Human Services) effective January 1, 2000;
- AB 1107 (Chapter 146, Statutes of 1999 - Trailer Bill) (Cedillo) effective immediately (July 22, 1999); and
- AB 359 (Chapter 845, Statutes of 1999) (Aroner) effective January 1, 2000.

This document was prepared to identify significant statutory changes that occurred in the 1999 Legislative session, focusing on those changes which affect services to persons with developmental disabilities. This document is not an official legislative publication and does not include any Budget Act language that may impact services. However, it does include changes in law outside of the Lanterman Developmental Disabilities Services Act that may impact services or programs for persons with developmental disabilities.

The text is presented in strikeout and underline format. Underlined text is new or revised. Strikeout indicates previous language which is now deleted from the text. Comments in the right-hand column highlight and summarize the impact of the corresponding changes.

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JULY, 2000

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The following is a compilation of the amendments made by:

Assembly Bill 1106, Chapter 369, Statutes of 1999

Assembly Bill 1107, Chapter 146, Statutes of 1999

Assembly Bill 359, Chapter 845, Statutes of 1999

DEVELOPMENTAL SERVICES

Welfare and Institutions Code (WIC)

Division 4.1

General Administration, Powers and Duties of the Department

4441.5. The State Department of Developmental Services shall develop policies and procedures, by no later than 30 days following the effective date of the Budget Act of 1999, at each developmental center, to notify appropriate law enforcement agencies in the event of a forensic client walkaway or escape. Local law enforcement agencies, including local police and county sheriff's departments, shall review the policies and procedures prior to implementation by the department.

This section was added by AB 1107 to require the Department to develop specified policies and procedures related to notifying law enforcement agencies when a developmental center forensic consumer leaves the developmental center grounds without authorization.

LANTERMAN DEVELOPMENTAL DISABILITIES SERVICES ACT

Welfare and Institutions Code

Division 4.5

Services for the Developmentally Disabled

CHAPTER 5.

Regional Centers for Persons With Developmental Disabilities

4640.6. (a) In approving regional center contracts, the department shall ensure that regional center staffing patterns demonstrate that direct service coordination are the highest priority.

(b) Contracts between the department and regional centers shall require that regional centers implement an emergency response system that ensures that a regional center staff person will respond to a consumer, or

This section was amended by AB 1107 to require contracts between the department and the regional centers to: specify service coordinator to consumer ratios; define "service

individual acting on behalf of a consumer, within two hours of the time an emergency call is placed. This emergency response system shall be operational 24 hours per day, 365 days per year.

~~(c) Contracts between the department and regional centers shall require regional centers to have case management consumer-to-staff ratios that reflect an overall average of 62 consumers to each staff member, and shall require regional centers to have, or contract for, all of the following areas:~~

(c) Contracts between the department and regional centers shall require regional centers to have service coordinator-to-consumer ratios, as follows:

(1) An average service coordinator to consumer ratio of one to 62 for all consumers who have not moved from the developmental centers to the community since April 14, 1993. In no case shall a service coordinator for these consumers have an assigned caseload in excess of 79 consumers for more than 60 days.

(2) An average service coordinator-to-consumer ratio of one to 45 for all consumers who have moved from a developmental center to the community since April 14, 1993. In no case shall a service coordinator for these consumers have an assigned caseload in excess of 59 consumers for more than 60 days.

(d) For purposes of this section, "service coordinator" means a regional center employee whose primary responsibility includes preparing, implementing, and monitoring consumers' individual program plans, securing and coordinating consumer services and supports, and providing placement and monitoring activities.

(e) By December 15, 1999, the department shall make recommendations to the Legislature and the Governor regarding the core staffing formula used to allocate operations funding to regional centers. These recommendations shall include consideration of, and public comments related to, the Regional Center Core Staffing Study, and shall include, but not be limited to, all of the following:

(1) Salary and wage levels for positions deemed necessary to retain and maintain qualified staff.

(2) Regional center staff positions that should be mandated.

coordinator"; advise the Legislature and the Governor regarding the core staffing formula; specify regional center service coordinator responsibilities; and to specify regional center caseload limitations and reporting. This section also establishes procedures for regional centers requesting a waiver from specified requirements.

(3) Staffing ratios necessary to meet the requirements of this chapter, including a service coordinator-to-consumer ratio necessary to appropriately meet the needs of consumers who are younger than three years of age and their families.

(4) Funding methodologies.

(5) Indicate the impact to staffing ratios implemented pursuant to subdivision (c).

(f) In order to ensure that caseload ratios are maintained pursuant to this section, each regional center shall provide service coordinator caseload data to the department in September and March of each fiscal year, commencing in the 1999-2000 fiscal year. The data shall be submitted in a format prescribed by the department. Within 30 days of receipt of data submitted pursuant to this subdivision, the department shall make a summary of the data available to the public upon request. The department shall verify the accuracy of the data when conducting regional center fiscal audits. Data submitted by regional centers pursuant to this subdivision shall:

(1) Only include data on service coordinator positions as defined in subdivision (d). Regional centers shall identify the number of positions that perform service coordinator duties on less than a fulltime basis. Staffing ratios reported pursuant to this subdivision shall reflect the appropriate proportionality of these staff to consumers served.

(2) Be reported separately for service coordinators whose caseload primarily includes any of the following:

(A) Consumers who are three years of age and older and who have not moved from the developmental center to the community since April 14, 1993.

(B) Consumers who have moved from a developmental center to the community since April 14, 1993.

(C) Consumers who are younger than three years of age.

(3) Not include positions that are vacant for more than 60 days.

(g) The department shall provide technical assistance and require a plan of correction for any regional center that, for two consecutive reporting periods, fails to maintain service coordinator caseload ratios required by this

section or otherwise demonstrates an inability to maintain appropriate staffing patterns pursuant to this section. Plans of correction shall be developed following input from the local area board, local organizations representing consumers, family members, regional center employees, including recognized labor organizations, and service providers, and other interested parties.

(e) (h) Contracts between the department and regional center shall require the regional center to have, or contract for, all of the following areas:

(1) Criminal justice expertise to assist the regional center in providing services and support to consumers involved in the criminal justice system as a victim, defendant, inmate or parolee.

(2) Special education expertise to assist the regional center in providing advocacy and support to families seeking appropriate educational services from a school district.

(3) Family support expertise to assist the regional center in maximizing the effectiveness of support and services provided to families.

(4) Housing expertise to assist the regional center in accessing affordable housing for consumers in independent or supportive living arrangements.

(5) Community integration expertise to assist consumers and families in accessing integrated services and supports and improved opportunities to participate in community life.

(6) Quality assurance expertise, to assist the regional center to provide the necessary coordination and cooperation with the area board in conducting quality-of-life assessments and coordinate the regional center quality assurance efforts.

(7) Each regional center shall employ at least one consumer advocate who is a person with developmental disabilities.

(8) Other staffing arrangements related to the delivery of services that the department determines are necessary to ensure maximum cost-effectiveness and to ensure that the service needs of consumers and families are met.

(d) (i) Any regional center proposing a staffing arrangement that substantially deviates from an overall

~~average of 62 consumers to each staff member, shall submit the proposal to the department for approval prior to implementation. In requesting departmental approval, the regional center shall describe, in detail, its proposed staffing arrangement and the reasons why the staffing arrangement is in the best interest of consumers and families served by the regional center, and shall demonstrate public support for the proposed staffing arrangement. the requirements of this section shall request a waiver from the department. Prior to granting a waiver, the department shall require a detailed staffing proposal, including, but not limited to, how the proposed staffing arrangement will benefit consumers and families served, and shall demonstrate clear and convincing support for the proposed staffing arrangement from constituencies served and impacted, that include, but are not limited to, consumers, families, providers, advocates, and recognized labor organizations. In addition, the regional center shall submit to the department any written opposition to the proposal from organizations or individuals, including, but not limited to, consumers, families, providers, and advocates, including recognized labor organizations. The department may grant waivers to regional centers that sufficiently demonstrate that the proposed staffing arrangement is in the best interest of consumers and families served, complies with the requirements of this chapter, and does not violate any contractual requirements. A waiver shall be approved by the department for up to 12 months, at which time a regional center may submit a new request pursuant to this subdivision.~~

(j) The requirements of subdivisions (c), (g), and (i) shall not apply when a regional center is required to develop an expenditure plan pursuant to Section 4791, and when the expenditure plan addresses the specific impact of the budget reduction on staffing requirements and the expenditure plan is approved by the department.

4647. (a) Pursuant to Section 4640.7, service coordination shall include those activities necessary to

This section was amended by AB 1107 to

implement an individual program plan, including, but not limited to, participation in the individual program plan process; assurance that the planning team considers all appropriate options for meeting each individual program plan objective; securing, through purchasing or by obtaining from generic agencies or other resources, services and supports specified in the person's individual program plan; coordination of service and support programs; collection and dissemination of information; and monitoring implementation of the plan to ascertain that objectives have been fulfilled and to assist in revising the plan as necessary.

require the regional center to provide the consumer and his/her designated representative, as appropriate, with written notification of any change in the consumer's assigned service coordinator within 10 business days.

(b) The regional center shall assign a service coordinator who shall be responsible for implementing, overseeing, and monitoring each individual program plan. The service coordinator may be an employee of the regional center or may be a qualified individual or employee of an agency with whom the regional center has contracted to provide service coordination services, or persons described in Section 4647.2. The regional center shall provide the consumer or, where appropriate, his or her parents, legal guardian, or conservator or authorized representative, with written notification of any permanent change in the assigned service coordinator within 10 business days. No person shall continue to serve as a service coordinator for any individual program plan unless there is agreement by all parties that the person should continue to serve as service coordinator.

(c) Where appropriate, a consumer or the consumer's parents or other family members, legal guardian, or conservator, may perform all or part of the duties of the service coordinator described in this section if the regional center director agrees and it is feasible.

(d) If any person described in subdivision (c) is designated as the service coordinator, that person shall not deviate from the agreed-upon program plan and shall provide any reasonable information and reports required by the regional center director.

(e) If any person described in subdivision (c) is designated as the service coordinator, the regional center shall provide ongoing information and support as necessary, to assist the person to perform all or part of the duties of service coordinator.

~~4669.8~~ This article shall remain in effect only until January 1, 2000, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2000, deletes or extends that date.

This section was deleted by AB 1106, making Regional Center Alternatives for Service Delivery a permanent program.

4681.3. (a) Notwithstanding any other provision of this article, for the 1996-97 fiscal year, the rate schedule authorized by the department in operation June 30, 1996, shall be increased based upon the amount appropriated in the Budget Act of 1996 for that purpose. The increase shall be applied as a percentage, and the percentage shall be the same for all providers.

This section was amended by AB 1107 to increase the rates for CCFs and to provide for a pass-through of any SSI COLAs.

(b) Notwithstanding any other provision of this article, for the 1997-98 fiscal year, the rate schedule authorized by the department in operation on June 30, 1997, shall be increased based upon the amount appropriated in the Budget Act of 1997 for that purpose. The increase shall be applied as a percentage, and the percentage shall be the same for all providers.

(c) Notwithstanding any other provision of this article, for the 1998-99 fiscal year, the rate schedule authorized by the department in operation on June 30, 1998, shall be increased commencing July 1, 1998, based upon the amount appropriated in the Budget Act of 1998 for that purpose. The increase shall be applied as a percentage, and the percentage shall be the same for all providers.

(d) Notwithstanding any other provision of this article, for the 1998-99 fiscal year, the rate schedule authorized by the department in operation on December 31, 1998, shall be increased January 1, 1999, based upon the cost-of-living adjustments in the Supplemental Security Income/State Supplementary Program for the Aged, Blind, and Disabled appropriated in the Budget Act of 1998 for that purpose. The increase shall be applied as a percentage and the percentage shall be the same for all providers.

(e) Notwithstanding any other provision of this article, for the 1999-2000 fiscal year, the rate schedule authorized by the department in operation on June 30, 1999, shall be increased July 1, 1999, based upon the amount appropriated in the Budget Act of 1999 for that purpose. The increase shall be applied as a percentage and the

percentage shall be the same for all providers.
(f) In addition, commencing January 1, 2000, any funds available from cost-of-living adjustments in the Supplemental Security Income/State Supplementary Payment (SSI/SSP) for the 1999-2000 fiscal year shall be used to further increase the community care facility rate. The increase shall be applied as a percentage, and the percentage shall be the same for all providers.

GOVERNMENT CODE

Chapter 10. Termination

~~95030. Unless repealed earlier pursuant to subdivision (c) of Section 95003, this division shall remain in effect only until January 1, 2000, and as of that date is repealed, unless a later enacted statute, which is chaptered before January 1, 2000, deletes or extends that date.~~

This section was repealed by AB 1107.

Continuous Skilled Nursing Care

~~Sections 14110.55, 14133.12 and 14495.10 would require the State Department of Health Services to establish a pilot program to provide continuous skilled nursing care, as defined, as a benefit of the Medi-Cal program, in accordance with an approved federal waiver to be developed and requested by the department no later than April 1, 2000. The bill would provide that the purpose of the pilot program is to explore more flexible models of health facility licensure to provide continuous skilled nursing care to developmentally disabled individuals in the least restrictive setting. The bill would require that not less than 10 facilities approved by the department would participate in the pilot program, and would exempt those facilities from licensure during their participation in the pilot program.~~

These sections were added by AB 359 to require the State Dept. of Health Services to establish a pilot program to provide continuous skilled nursing care.