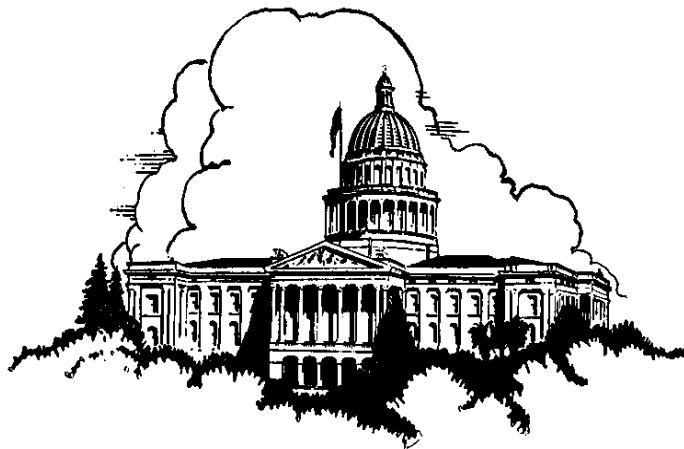


2001 LEGISLATIVE SESSION

IMPACT
OF

*AB 430 ON SERVICES FOR PEOPLE WITH
DEVELOPMENTAL DISABILITIES*



INTRODUCTION

During the first half of the 2001-2002 Legislative session, provisions of the Welfare and Institutions Code were amended, deleted or added by one piece of legislation as follows:

- AB 430 (Cardenas) (Chapter 171, Statutes of 2001, Effective August 9, 2001)

This document was prepared to identify significant statutory changes that occurred in the 2001-2002 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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The following is a compilation of the amendments made by:

Assembly Bill 430, Chapter 171, Statutes of 2001

4427.5. (a) A developmental center shall immediately report all resident deaths and serious injuries of unknown origin to the appropriate law enforcement agency that may, at its discretion, conduct an independent investigation.

(b) The department shall do both of the following:

(1) Annually provide written information to every developmental center employee regarding all of the following:

(A) The statutory and departmental requirements for mandatory reporting of suspected or known abuse.

(B) The rights and protections afforded to individuals' reporting of suspected or known abuse.

(C) The penalties for failure to report suspected or known abuse.

(D) The telephone numbers for reporting suspected or known abuse to designated investigators of the department and to local law enforcement agencies.

(2) On or before August 1, 2001, in consultation with employee organizations, advocates, consumers, and family members, develop a poster that encourages staff, residents, and visitors to report suspected or known abuse and provides information on how to make these reports.

This section was added to require developmental centers to report: 1) all resident deaths; and 2) all serious injuries of unknown origin to the appropriate law enforcement agency. This section also requires the department to: 1) provide to every developmental center employee information on reporting rights and requirements and 2) develop an informational poster by August 1, 2001.

4598.5.

If, in the unforeseen event that federal funds are not available for appropriation or transfer to Item 4110-001-0001 of Section 2.00 of the annual Budget Act of ~~2000~~ for support of the Organization of Area Boards on Developmental Disabilities, from Item 4100-001-0890 of Section 2.00 of the annual Budget Act of ~~2000~~ based on a determination by the Department of Finance, the Department of Finance shall notify the appropriate fiscal and policy committees of the Legislature and the Joint

This section was amended to change the time frame for Department of Finance notification to legislative committees from 10 working days to 15 working days.

Legislative Budget Committee within 15 ~~10~~-calendar days of this determination. This notification shall specify the dollar amount needed to fully continue operations of the Organization of Area Boards on Developmental Disabilities, and this amount is hereby appropriated from the General Fund for those purposes, commencing 10 days after the receipt of the notification by the Legislature.

4631

(a) In order to provide to the greatest extent practicable a larger degree of uniformity and consistency in the services, funding, and administrative practices of regional centers throughout the state, the State Department of Developmental Services shall, in consultation with the regional centers, adopt regulations prescribing a uniform accounting system, a uniform budgeting and encumbrancing system, a systematic approach to administrative practices and procedures, and a uniform reporting system which shall include:

(1) Number and costs of diagnostic services provided by each regional center.

(2) Number and costs of services by service category purchased by each regional center.

(3) All other administrative costs of each regional center.

(b) The department's contract with a regional center shall require strict accountability and reporting of all revenues and expenditures, and strict accountability and reporting as to the effectiveness of the regional center in carrying out its program and fiscal responsibilities as established herein.

(c) The Director of Developmental Services shall publish a report of the financial status of all regional centers and their operations by February 28 ~~December 31~~ of each year. At a minimum, the report shall include each regional center's budget and actual expenditures for the previous fiscal year and each center's budget and projected expenditures for the current fiscal year.

This section amends the date by which the Director must publish the regional center financial status report.

Sec. 25 of AB 430

The Legislature finds and declares all of the following:

(a) Autism disorder is the only disability under the Lanterman Developmental Disabilities Services Act for which there is no biological marker upon which to base a diagnosis.

(b) Persons with autism disorder and other pervasive developmental disorders exhibit similar core deficits in social interaction, communication, restricted and repetitive behaviors or interests.

(c) The only method currently available to diagnose autism disorder and other pervasive developmental disorders is observation and evaluation of behavior.

(d) Given the method by which autism disorder and other pervasive developmental disorders are currently diagnosed, the opportunity for misdiagnosis occurs when clinicians are not properly trained in the utilization of diagnostic tools, including diagnostic parental interviews and questionnaires and diagnostic observation instruments.

(e) There is consensus among the appropriate medical discipline regarding the most effective methods of diagnosing autism disorder and other autistic spectrum disorders.

(f) All regional centers serving persons with developmental disabilities should utilize the same diagnostic tools and employ the same diagnostic methods for which clinical staff have been appropriately trained to ensure consistency and accuracy of diagnosis of autism disorder and other pervasive developmental disorders throughout California.

4643.3

(a)(1) On or before April 1, 2002, the department shall develop evaluation and diagnostic procedures for the diagnosis of autism disorder and other autistic spectrum disorders.

(2) The department shall publish or arrange for the publication of the evaluation and diagnostic procedures required by paragraph (1). The published evaluation and diagnostic procedures shall be available to the public.

(b) The department shall develop a training program for

This section expresses legislative intent that all regional centers should use the same diagnostic tools and methods to ensure consistency and accuracy in diagnosing autism and other pervasive developmental disorders.

This section was added to: 1) require the department to develop evaluation and diagnostic procedures for autism and autistic spectrum disorders by April 1, 2002; 2) publish and make available to the public the

regional center clinical staff in the utilization of diagnostic procedures for the diagnosis of autism disorder. The training program shall be implemented on or before July 1, 2002.

evaluation and diagnostic procedures; and 3) develop and implement a training program for regional center staff.

4685.5

(a) Notwithstanding any other provision of law, commencing January 1, 1999, the department shall conduct a ~~three-year~~ pilot project under which funds shall be allocated for local self-determination pilot programs that will enhance the ability of a consumer and his or her family to control the decisions and resources required to meet all or some of the objectives in his or her individual program plan.

This section was amended to eliminate the requirement that the self-determination pilot project be a three-year project.

(b) Local self-determination pilot programs funded pursuant to this section may include, but not be limited to, all of the following:

(1) Programs that provide for consumer and family control over which services best meet their needs and the objectives in the individual program plan.

(2) Programs that provide allowances of subsidies to consumers and their families.

(3) Programs providing for the use of debit cards.

(4) Programs that provide for the utilization of parent vendors, direct pay options, individual budgets for the procurement of services and supports, alternative case management, and vouchers.

(5) Wraparound programs.

(c) The department shall allocate funds for pilot programs in three regional center catchment areas and shall, to the extent possible, test a variety of mechanisms outlined in subdivision (b).

(d) Funds allocated to implement this section may be used for administrative and evaluation costs. Purchase-of-services costs shall be based on the estimated annual service costs associated with each participating consumer and family. Each proposal shall include a budget outlining administrative, service, and evaluation components.

(e) Pilot projects shall be conducted in the following regional center catchment areas:

(1) Tri-Counties Regional Center

(2) Eastern Los Angeles Regional Center

(3) Redwood Coast Regional Center

(f) If any of the regional centers specified in subdivision (e) do not submit a proposal meeting the requirements set forth in this section or by the department, the department may select another regional center to conduct a pilot project.

(g) The department shall develop and issue a request for proposals soliciting regional center participation in the pilot program. Consumers, families, regional centers, advocates, and service providers shall be consulted during the development of the request for proposal and selection of the pilot areas.

(h) Each area receiving funding under this section shall demonstrate joint regional center and area board support for the local self-determination pilot program, and shall establish a local advisory committee, appointed jointly by the regional center and area board, made up of consumers, family members, advocates, and community leaders and that shall reflect the multicultural diversity and geographic profile of the catchment area. The local advisory committee shall review the development and ongoing progress of the local self-determination pilot program and may make ongoing recommendations for improvement to the regional center. By September 1, 2000, the local advisory committee shall submit to the department recommendations for the continuation and expansion of the program.

(i) The department shall issue a report to the Legislature no later than January 1, 2001, on the status of each pilot program funded by this section and recommendations with respect to continuation and expansion.

(j) Notwithstanding any other provision of law, as of January 1, 1999, of the balances available pursuant to Item 4300-490 of the Budget Act of 1998 for regional centers, the first seven hundred fifty thousand dollars (\$750,000) is reappropriated for the purposes of implementing this section, and shall be available for expenditure until January 1, 2002.

(k) This section shall remain in effect only until January 1, 2004~~2~~, and as of that date is repealed, unless a later enacted statute, that becomes effective on or before January 1, 2004, extends or deletes that date.

4731

(a) Each consumer or any representative acting on behalf of any consumer or consumers, who believes that any right to which a consumer is entitled has been abused, punitively withheld, or improperly or unreasonably denied by a regional center, developmental center, or service provider, may pursue a complaint as provided in this section.

(b) Initial referral of any complaint taken pursuant to this section shall be to the ~~clients' rights advocate assigned to~~ director of the regional center from which the consumer receives case management services. If the consumer resides in a state developmental center, the complaint shall be made to the ~~clients' rights advocate assigned to~~ director of that state developmental center. The ~~clients' rights advocate~~ director shall, within ~~40~~ 20 working days of receiving a complaint, investigate the complaint and send a written proposed resolution to the complainant and to the ~~regional center, developmental center or, if applicable, to the service provider.~~ The written proposed resolution shall include a telephone number and mailing address for referring the proposed resolution in accordance with subdivision (c).

(c) ~~If the complainant expresses dissatisfaction with the action taken or proposed by the clients' rights advocate, the complainant shall be referred, by the clients' rights advocate, within five working days, to the director of the state developmental center or of the regional center.~~ If the complainant is not satisfied with the proposed resolution, the complainant may refer the complaint, in writing, to the Director of Developmental Services within 15 working days of receipt of the proposed resolution. The director shall, within 45 days of receiving a complaint, issue a written administrative decision and send a copy of the decision to the complainant, the director of the regional center or state developmental center, and the service provider, if applicable. If there is no referral to the department, the proposed resolution shall become effective on the 20th working day following receipt by the complainant.

(d) ~~If the complaint is not resolved to the satisfaction of the complainant within ten working days of receipt by the director of the state developmental center or regional~~

This section was amended to: 1) eliminate the requirement that the initial complaint referral be to the clients' rights advocate and instead require the initial referral be made to the regional center director or developmental center director; and 2) changes the time frame for investigating a complaint and issuing a written proposed resolution to the complaint from 10 working days to 20 working days and requires the resolution to include a telephone number and mailing address for the next step in the resolution process.

~~center, it shall be referred by that director to the State Department of Developmental Services. The director shall, within 45 days of receiving a complaint, issue a written administrative decision and send a copy of the decision to the complainant.~~

(d) The department shall annually compile the number of complaints filed, by each regional center and state developmental center catchment area, the subject matter of each complaint, and a summary of each decision. Copies shall be made available to any person upon request.

(e) This section shall not be used to resolve disputes concerning the nature, scope, or amount of services and supports that should be included in an individual program plan, for which there is an appeal procedure established in this division, or disputes regarding rates or audit appeals for which there is an appeal procedure established in regulations. Those disputes shall be resolved through the appeals procedure established by this division or in regulations.

(f) All consumers or, where appropriate, their parents, legal guardian, conservator, or authorized representative, shall be notified in writing in a language which they comprehend, of the right to file a complaint pursuant to this section when they apply for services from a regional center or are admitted to a developmental center, and at each regularly scheduled planning meeting.

Sec. 53 of AB 430

The State Department of Developmental Services shall provide the fiscal committees of the Legislature with copies of finalized data analyses, including statistical analyses of variances and results of data survey work, conducted as part of the second phase of the Purchases of Services Study to be completed in 2002.

This section was added to require the department to provide to legislative fiscal committees data analysis conducted for the 2002 Purchase of Services Study.

Sec. 55 of AB 430

The State Department of Developmental Services shall provide the fiscal and policy committees of the Legislature with an annual update regarding special incident

This section was added to require the department to provide to legislative fiscal committees an

information, as collected and developed by the department at the request of the federal Centers for Medicare and Medicaid Services.

annual update on special incident reporting.

95004.

The early intervention services specified in this title shall be provided as follows:

(a) Direct services for eligible infants and toddlers and their families shall be provided pursuant to the existing regional center system under the Lanterman Developmental Disabilities Services Act (Division 4.5 (commencing with Section 4500) of the Welfare and Institutions Code) and the existing local education agency system under appropriate sections of Part 30 (commencing with Section 56000) of the Education Code and regulations adopted pursuant thereto, and Part H C of the Individuals with Disabilities Education Act (20 U.S.C. Sec. 1431~~74~~ et seq.).

(b)(1) In providing services under this title, regional centers shall comply with the Lanterman Developmental Disabilities Services Act (Division 4.5 (commencing with Section 4500) of the Welfare and Institutions Code, and its implementing regulations (Division 2 (commencing with Section 50201) of Title 17 of the California Code of Regulations) including, but not limited to, those provisions relating to vendorization and ratesetting, except where compliance with those provisions would result in any delays in, or any cost to the families for, the provision of early intervention, or otherwise conflict with this title and the regulations implementing this title (Chapter 2 (commencing with Section 52000) of Division 2 of Title 17 of the California Code of Regulations, or Part C of the Individuals with Disabilities Education Act (20 U.S.C. Sec. 1431) et seq., and applicable federal regulations contained in Part 303 (commencing with Section 303.1) of Title 34 of the Code of Federal Regulations.

(2) When compliance with this subdivision would result in any delays in the provision of early intervention services or costs to families for the provision of any of these services, the department may authorize a regional center to use a special service code that allows immediate

This section was amended by clarifying how regional centers vendorize and set rates for early intervention services to allow for the immediate procurement of the service.

procurement of the service.

(~~c~~b) Services shall be provided by family resource centers that provide, but are not limited to, parent-to-parent support, information dissemination and referral, public awareness, family professional collaboration activities, and transition assistance for families.

(~~d~~e) Existing obligations of the state to provide these services at state expense shall not be expanded.

(~~e~~f) it is the intent of the Legislature that services be provided in accordance with Sections 303.124, 303.126, and 303.527 of Title 34 of the Code of Federal Regulations.