

An act to amend Section 95004 of the Government Code, and to amend Sections 4620.3, 4684, and 4685.7 of, and to repeal Sections 4783, 4785, 4785.1, and 4785.2 of, the Welfare and Institutions Code, relating to developmental services.

SECURED  
COPY



## THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 95004 of the Government Code, as amended by Section 1 of Chapter 25 of the Statutes of 2012, is amended to read:

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 Division 4 of Title 2 of the Education Code and regulations adopted pursuant thereto, and Part C of the federal Individuals with Disabilities Education Act (20 U.S.C. Sec. 1431 et seq.).

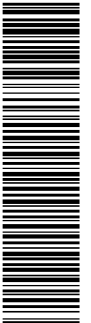
(b) (1) In providing services under this title, regional centers shall comply with the Lanterman Developmental Disabilities Services Act (Division 4.5 (commencing with Section 4500) of the Welfare and Institutions Code, and its implementing regulations (Division 2 (commencing with Section 50201) of Title 17 of the California Code of Regulations) Regulations)), including, but not limited to, those provisions relating to vendorization and ratesetting, ~~and the Family Cost Participation Program, except where~~ if compliance with those provisions would result in any delays in, in 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 federal 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. Notwithstanding any other law or ~~regulation to the contrary, regulation,~~ private health insurance for medical services or a health care service plan identified in the individualized family service plan, other than for evaluation and assessment, shall be used in compliance with applicable federal and state law and regulation.

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

(c) The use of private health insurance or a health care service plan to pay for early intervention services under Part C of the federal Individuals with Disabilities Education Act (20 U.S.C. Sec. 1431 et seq.) shall not:

(1) Count towards or result in a loss of benefits due to the annual or lifetime health insurance or health care service plan coverage caps for the infant or toddler with a disability, the parent, or the child's family members who are covered under that health insurance policy or health care service plan contract.

(2) Negatively affect the availability of health coverage for the infant or toddler with a disability, the parent, or the child's family members who are covered under that health insurance policy or health care service plan contract, or result in a discontinuance



of the health insurance policy or the health care service plan contract or coverage under the health insurance policy or health care service plan contract for these individuals.

(3) Be the basis for increasing the health insurance or health care service plan premium of the infant or toddler with a disability, the parent, or the child's family members covered under that health insurance policy or health care service plan contract.

(d) 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.

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

(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.

SEC. 2. Section 4620.3 of the Welfare and Institutions Code is amended to read:

4620.3. (a) To provide more uniformity and consistency in the administrative practices and services of regional centers throughout the state, promote appropriateness of services, maximize efficiency of funding, address the state budget deficit, ensure consistency with Lanterman Act values, maintain the entitlement to services, and improve cost-effectiveness, the department, in collaboration with stakeholders, shall develop best practices for the administrative management of regional centers and for regional centers to use when purchasing services for consumers and families.

(b) In developing regional center administrative management best practices, the department shall consider the establishment of policies and procedures to ensure prudent fiscal and program management by regional centers; effective and efficient use of public resources; consistent practices to maximize the use of federal funds; detection and prevention of fraud, waste, and abuse; and proper contracting protocols.

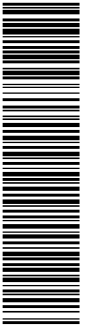
(c) In developing purchase of services best practices, the department shall consider eligibility for the service; duration of service necessary to meet objectives set in an individual program plan; frequency and efficacy of the service necessary to meet objectives in an individual program plan; impact on community integration; service providers' qualifications and performance; rates; parental and consumer responsibilities pursuant to Sections 4646.4, 4659, 4677, ~~4782~~, ~~4783~~, and 4784 of this code and Section 95004 of the Government Code; and self-directed service options.

(d) The department shall ensure that implementation of best practices that impact individual services and supports are made through the individual program planning process as provided for in this division or an individualized family service plan pursuant to Section 95020 of the Government Code, and that consumers and families are notified of any exceptions or exemptions to the best practices and their appeal rights established in Section 4701.

(e) Purchase of services best practices developed pursuant to this section may vary by service category and may do all of the following:

(1) Establish criteria determining the type, scope, amount, duration, location, and intensity of services and supports purchased by regional centers for consumers and their families.

(2) Modify payment rates.



(3) Reflect family and consumer responsibilities, pursuant to Sections 4646.4, 4659, 4677, ~~4782, 4783~~, and 4784 of this code and Section 95004 of the Government Code.

(f) Purchase of services best practices shall include provisions for exceptions to ensure the health and safety of the consumer or to avoid out-of-home placement or institutionalization.

(g) Best practices developed pursuant to this section shall not do either of the following:

(1) Endanger a consumer's health or safety.

(2) Compromise the state's ability to meet its commitments to the federal Centers for Medicare and Medicaid Services for participation in the Home and Community-Based Services Waiver or other federal funding of services for persons with developmental disabilities.

(h) The department shall submit the proposed best practices to the fiscal and applicable policy committees of the Legislature by no later than May 15, 2011. This submission shall include a description of the process followed to collaborate with system stakeholders; the anticipated impact of the best practices, coupled with prior reductions on consumers, families, and providers; estimated cost savings associated with each practice; and draft statutory language necessary to implement the best practices. Implementation of the best practices shall take effect only upon subsequent legislative enactment.

SEC. 3. Section 4684 of the Welfare and Institutions Code is amended to read:

4684. (a) Notwithstanding any other ~~provision of~~ law, the cost of providing 24-hour out-of-home nonmedical care and supervision in community care facilities licensed or approved pursuant to Chapter 3 (commencing with Section 1500) of Division 2 of the Health and Safety Code shall be funded by the Aid to Families with Dependent Children-Foster Care (AFDC-FC) program pursuant to Section 11464, for children who are both AFDC-FC recipients and regional center consumers.

(b) The cost of providing adoption assistance ~~benefits~~, benefits shall be funded by the Adoption Assistance Program (AAP) under Section 16121, for children who are both AAP recipients and regional center consumers.

(c) (1) For regional center consumers who are recipients of AFDC-FC benefits, regional centers shall purchase or secure the services that are contained in the child's Individualized Family Service Plan (IFSP) or Individual Program Plan (IPP), but ~~which~~ that are not allowable under federal or state AFDC-FC provisions.

(2) For regional center consumers who are recipients of AAP benefits, regional centers shall purchase or secure the services that are contained in the child's IFSP or IPP.

(3) For regional center consumers receiving services under paragraph (1) or (2), these services shall be separately purchased or secured by the regional center, pursuant to Sections 4646 to 4648, inclusive, and Section 4685, and pursuant to Sections 95018 and 95020 of the Government Code. ~~AFDC-FC and AAP benefits shall not be counted toward the gross income calculated for the purposes of the Family Cost Participation Program pursuant to Section 4783. Recipients of AFDC-FC benefits shall not be subject to the Family Cost Participation Program requirements.~~

(4) Regional centers shall accept referrals for evaluations of AFDC-FC-eligible children and children receiving AAP benefits for the purpose of determining eligibility





for regional center services, pursuant to Section 4642. Regional centers shall assist county welfare and probation departments in identifying appropriate placement resources for children who are recipients of AFDC-FC and who are eligible for regional center services.

(d) (1) For purposes of this section, children who are recipients of AFDC-FC and regional center services who are residing with a relative or nonrelative extended family member pursuant to paragraph (2) of subdivision (f) of Section 319 or Section 362.7, or a facility defined in paragraph (5) or (6) of subdivision (a) of Section 1502 of the Health and Safety Code that is not vendored by the regional center as a residential facility, shall not be prohibited from receiving services defined in paragraph (38) of subdivision (a) of Section 54302 of Title 22 of the California Code of Regulations.

(2) AFDC-FC and AAP benefits shall be for care and supervision, as defined in subdivision (b) of Section 11460, and the regional centers shall separately purchase or secure other services contained in the child's IFSP or IPP pursuant to Section 4646 to 4648, inclusive, Section 4685, and Sections 95018 and 95020 of the Government Code. Notwithstanding any other ~~provision of~~ law or regulation, the receipt of AFDC-FC or AAP benefits shall not be cause to deny any other services that a child or family for which the child or family is otherwise eligible pursuant to this division.

(e) This section shall apply to all recipients of AFDC-FC and AAP benefits, including those with rates established prior to the effective date of the act that adds this subdivision, pursuant to Sections 11464 and 16121.

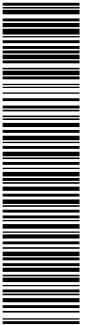
(f) Regulations adopted by the department pursuant to this section shall be adopted as emergency regulations in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, and for the purposes of that chapter, including Section 11349.6 of the Government Code, the adoption of these regulations is an emergency and shall be considered by the Office of Administrative Law as necessary for the immediate preservation of the public peace, health, safety, and general welfare.

SEC. 4. Section 4685.7 of the Welfare and Institutions Code is amended to read:

4685.7. (a) Contingent upon approval of a federal waiver, the Self-Directed Services Program (SDS Program) is hereby established and shall be available in every regional center catchment area to provide participants, within an individual budget, greater control over needed services and supports. The Self-Directed Services Program shall be consistent with the requirements set forth in this section. In order to provide opportunities to participate in the program, the department shall adopt regulations, consistent with federal law, to implement the procedures set forth in this section.

(b) For purposes of this section, all of the following definitions shall apply:

(1) "Financial management services" means a service or function that assists the participant to manage and direct the distribution of funds contained in the individual budget. This may include, but is not limited to, bill paying services and activities that facilitate the employment of service workers by the participant, including, but not limited to, federal, state, and local tax withholding payments, unemployment compensation fees, setting of wages and benefits, wage settlements, fiscal accounting, and expenditure reports. The department shall establish specific qualifications ~~which~~ that shall be required of a financial management services provider.



(2) “Supports brokerage” means a service or function that assists participants in making informed decisions about the individual budget, and assists in locating, accessing and coordinating services consistent with and reflecting a participant’s needs and preferences. The service is available to assist in identifying immediate and long-term needs, developing options to meet those needs, participating in the person-centered planning process and development of the individual program plan, and obtaining identified supports and services.

(3) “Supports broker” means a person, selected and directed by the participant, who fulfills the supports brokerage service or function and assists the participant in the SDS Program. Specific qualifications shall be established by the department and required of a supports broker provider.

(4) “Waiver” means a waiver of federal law pursuant to Section 1396n of Title 42 of the United States Code.

(5) “Independence Plus Self-Directed (IPSD) Waiver Program” or “Self-Directed Waiver Program” means a federal waiver to the state’s Medicaid plan to allow a person with developmental disabilities who needs or requires long-term supports and services, ~~and and~~, when appropriate, the person’s family, greater opportunity to control ~~his or her~~ their own health and well-being by utilization of self-directed services.

(6) ~~(A)~~ “Self-directed services” or “SDS” means a voluntary delivery system consisting of a defined and comprehensive mix of services and supports, selected and directed by a participant, in order to meet all or some of the objectives in ~~his or her~~ their individual program plan. Self-directed services are designed to assist the participant to achieve personally defined outcomes in inclusive community settings.

~~Self-directed~~

~~(B)~~ Self-directed services shall include, but are not limited to, all of the following:

~~(A)~~

~~(i)~~ Home health aide services.

~~(B)~~

~~(ii)~~ Supported employment and prevocational services.

~~(C)~~

~~(iii)~~ Respite services.

~~(D)~~

~~(iv)~~ Supports broker functions and services.

~~(E)~~

~~(v)~~ Financial management services and functions.

~~(F)~~

~~(vi)~~ Environmental accessibility adaptations.

~~(G)~~

~~(vii)~~ Skilled nursing.

~~(H)~~

~~(viii)~~ Transportation.

~~(I)~~

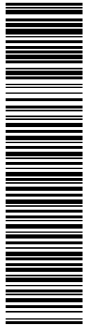
~~(ix)~~ Specialized medical equipment and supplies.

~~(J)~~

~~(x)~~ Personal emergency response system.

~~(K)~~

~~(xi)~~ Integrative therapies.



- ~~(L)~~
- ~~(xii)~~ Vehicle adaptations.
- ~~(M)~~
- ~~(xiii)~~ Communication support.
- ~~(N)~~
- ~~(xiv)~~ Crises intervention.
- ~~(O)~~
- ~~(xv)~~ Nutritional consultation.
- ~~(P)~~
- ~~(xvi)~~ Behavior intervention services.
- ~~(Q)~~
- ~~(xvii)~~ Specialized therapeutic services.
- ~~(R)~~
- ~~(xviii)~~ Family assistance and support.
- ~~(S)~~
- ~~(xix)~~ Housing access supports.
- ~~(T)~~
- ~~(xx)~~ Community living supports, including, but not limited to, socialization, personal skill development, community participation, recreation, leisure, home and personal care.
- ~~(U)~~
- ~~(xxi)~~ Advocacy services.
- ~~(V)~~
- ~~(xxii)~~
- ~~(xxii)~~ Individual training and education.
- ~~(W)~~
- ~~(xxiii)~~ Participant-designated goods and services.
- ~~(X)~~
- ~~(xxiv)~~ Training and education transition services.

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(C) The department shall include all of the services and supports listed in this paragraph in the IPSD Waiver Program application. Notwithstanding this paragraph, only services and supports included in an approved IPSD Waiver shall be funded through the SDS Program.

(7) "Advocacy services" means services and supports that facilitate the participant in exercising ~~his or her~~ their legal, ~~civil~~ civil, and service rights to gain access to generic services and benefits that the participant is entitled to receive. Advocacy services shall only be provided when other sources of similar assistance are not available to the participant, and when advocacy is directed towards obtaining generic services.

(8) "Individual budget" means the amount of funding available to the participant for the purchase of services and supports necessary to implement an individual program plan. The individual budget shall be constructed using a fair, equitable, and transparent methodology.

(9) "Risk pool" means an account that is available for use in addressing the unanticipated needs of participants in the SDS Program.

(10) "Participant" means an individual, ~~and~~ and, when appropriate, ~~his or her~~ their parents, legal guardian or conservator, or authorized representative, who have



been deemed eligible for, and have voluntarily agreed to participate in, the SDS Program.

(c) Participation in the SDS Program is fully voluntary. A participant may choose to participate in, and may choose to leave, the SDS Program at any time. A regional center may not require participation in the SDS Program as a condition of eligibility for, or the delivery of, services and supports otherwise available under this ~~Division~~ division.

(d) The department shall develop informational materials about the SDS Program. The department shall ensure that regional centers are trained in the principles of SDS, the mechanics of the ~~SDS Program Program~~, and the rights of consumers and families as candidates for, and participants, in the SDS Program. Regional centers shall conduct local meetings or forums to provide regional center consumers and families with information about the SDS Program. All consumers and families who express an interest in participating in the SDS program shall receive an in-depth ~~orientation, orientation~~ orientation conducted by the regional ~~center, center~~ prior to enrollment in the program.

(e) Prior to enrollment in the SDS Program, and based on the methodologies described below, an individual, ~~and and~~, when appropriate, ~~his or her~~ their parents, legal guardian or conservator, or authorized representative, shall be provided in writing two individual budget amounts. If the individual, ~~and and~~, when appropriate ~~his~~ appropriate, their parents, legal guardian or conservator, or authorized representative, elects to become a participant in the SDS Program, ~~he or she~~ the individual shall choose which of the two budget amounts provided will be used to implement their individual program plan.

(1) The methodologies and formulae for determining the two individual budget amounts shall be detailed in departmental regulations, as follows:

(A) One individual budget amount shall equal 90 percent of the annual purchase of services costs for the individual. The annual costs shall reflect the average annual costs for the previous two fiscal years for the individual.

(B) One individual budget amount shall equal 90 percent of the annual per capita purchase of service costs for the previous two fiscal years for consumers with similar characteristics, who do not receive services through the SDS Program, based on ~~factors~~ factors, including, but not limited to, age, type of residence, type of disability and ability, functional skills, and whether the individual is in transition. This budget methodology shall be constructed using data available on the State Department of Developmental Services information system.

(2) Once a participant has selected an individual budget amount, that individual budget amount shall be available to the participant each year for the purchase of self-directed services until a new individual budget amount has been determined. An individual budget amount shall be calculated no more than once in a 12-month period.

(3) As determined by the participant, the individual budget shall be distributed among the following budget categories in order to implement the IPP:

- (A) Community Living.
- (B) Health and Clinical Services.
- (C) Employment.
- (D) Training and Education.
- (E) Environment and Medical Supports.
- (F) Transportation.



(4) Annually, participants may transfer up to 10 percent of the funds originally distributed to any budget category set forth in paragraph (3), to another budget category or categories. Transfers in excess of 10 percent of the original amount allocated to any budget category may be made upon the approval of the regional center. Regional centers may only deny a transfer if necessary to protect the health and safety of the participant.

(5) The regional center shall annually ascertain from the participant whether there are any circumstances that require a change to the annual individual budget amount. The department shall detail in regulations the process by which this annual review shall be achieved.

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

(f) The department shall establish a risk pool fund to meet the unanticipated needs of participants in the SDS Program. The fund shall be administered by the department. Notwithstanding Section 13340 of the Government Code, all moneys in the fund shall be continuously appropriated to the department, without regard to fiscal years, for the purpose of funding services and supports pursuant to this subdivision.

(1) The risk pool shall be funded at the equivalent of 5 percent of the historic annual purchase of service costs for consumers participating in the SDS Program.

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

(3) The risk pool may be used only in the event of substantial change in a participant's service and support needs that were not known at the time the individual budget was set, including an urgent need to relocate a residence, and catastrophic injury or illness.

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

(g) In the first year of the SDS Program, the department shall provide for establishment of savings to the General Fund equivalent to 5 percent of the historic annual purchase of service costs for SDS program participants. In subsequent fiscal years, the department shall annually provide for establishment of savings to the General Fund equivalent to 5 percent of the annual purchase of services costs for SDS Program participants, averaged over the prior two fiscal years.

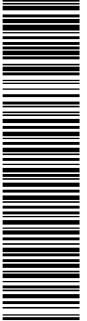
(h) A regional center may advance funds to a financial management services entity pursuant to SDS Program regulations to facilitate development of a participant's individual budget and transition into the SDS Program.

(i) Participation in the SDS Program shall be available to any regional center consumer who meets all of the following eligibility requirements.

(1) The participant is three years of age or older.

(2) The participant has a developmental disability, as defined in Section 4512.

(3) The participant does not live in a licensed long-term health care facility, as defined in paragraph (44) of subdivision (a) of Section 54302 of Title 17 of the California Code of Regulations, or a residential facility, as defined in paragraph (55) of subdivision (a) of Section 54302 of Title 17 of the California Code of Regulations,



or receive day program or habilitation services, as defined in paragraph (16) or (34) of subdivision (a) of Section 54302 of Title 17 of the California Code of Regulations, respectively. An individual, ~~and and~~, when appropriate, ~~his or her~~ their parent, legal guardian or conservator, or authorized representative, who is not eligible to participate in the SDS Program pursuant to this ~~paragraph, paragraph~~ may request that the regional center provide person-centered planning services in order to make arrangements for transition to the SDS Program. In that case, the regional center shall initiate person-centered planning services within 60 days of a request.

(4) The participant agrees to all of the following terms and conditions:

(A) The participant shall undergo an in-depth orientation to the SDS Program prior to enrollment.

(B) The participant shall agree to utilize the services and supports available within the SDS Program only when generic services cannot be accessed, and except for Medi-Cal state plan benefits when applicable.

(C) The participant shall consent to use only services necessary to implement ~~his or her~~ their individual program plan as described in the IPSD Waiver Program, and as defined in paragraph (6) of subdivision (b), as an available service in the SDS Program, and shall agree to comply with any and all other terms and conditions for participation in the SDS Program described in this section.

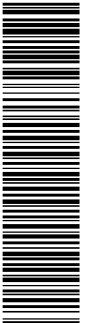
(D) The participant shall manage self-directed services within the individual budget amount, chosen pursuant to subdivision (e).

(E) The participant shall utilize the services of a financial management services entity of ~~his or her~~ their own choosing. A financial management services provider may either be hired or designated by the participant. A designated financial management services provider shall perform services on a nonpaid basis. An individual or a parent of an individual in the SDS Program shall provide financial management services only as a designated provider and only if the capacity to fulfill the roles and responsibilities as described in the financial management services provider qualifications can be demonstrated to the regional center.

(F) The participant shall utilize the services of a supports broker of ~~his or her~~ their own choosing for the purpose of providing services and functions as described in paragraphs (2) and (3) of subdivision (b). A supports broker may either be hired or designated by the participant. A designated supports broker shall perform support brokerage services on a nonpaid basis. An individual or a parent of an individual in the SDS Program shall provide supports brokerage services or ~~his or her~~ their designated representative shall provide the services only as a designated provider and only if the capacity to fulfill the role and responsibilities as described in the supports broker provider qualifications can be demonstrated to the financial management services entity.

(j) A participant who is not Medi-Cal eligible may participate in the SDS Program without IPSD Waiver Program enrollment and receive self-directed services if all other IPSD Waiver Program eligibility requirements are met.

(k) The planning team, established pursuant to subdivision (j) of Section 4512, shall utilize the person-centered planning process to develop the Individual Program Plan (IPP) for an SDS participant. The IPP shall detail the goals and objectives of the participant that are to be met through the purchase of participant selected services and supports.



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

(m) An adult may designate an authorized representative to effect the implementation. The representative shall meet all of the following requirements:

(1) ~~He or she~~ They shall demonstrate knowledge and understanding of the participant's needs and preferences.

(2) ~~He or she~~ They shall be willing and able to comply with SDS Program requirements.

(3) ~~He or she~~ They shall be at least 18 years of age.

(4) ~~He or she~~ They shall be approved by the participant to act in the capacity of a representative.

(n) The participant, or ~~his or her~~ their authorized ~~representative~~ representative, and the regional center case manager shall receive a monthly budget statement that describes the amount of funds allocated by budget category, the amount spent in the previous 30-day period, and the amount of funding that remains available under the participant's individual budget.

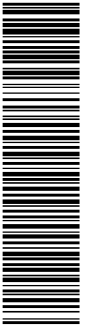
(o) If at any time during participation in the SDS Program a regional center determines that an individual is no longer eligible to continue based on the criteria described in subdivision (i), or a participant voluntarily chooses to exit the SDS Program, the regional center shall provide for the participant's transition from the SDS Program to other services and supports. This shall include the development of a new individual program plan that reflects the services and supports necessary to meet the individual's needs. The regional center shall ensure that there is no gap in services and supports during the transition period.

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

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

(p) A participant in the SDS Program shall have all the rights established in Chapter 7 (commencing with Section 4700), except as provided under paragraph (6) of subdivision (e).

(q) Only a financial management services provider is required to apply for vendorization in accordance with Subchapter 2 (commencing with Section 54300) of Chapter 3 of Title 17 of the California Code of Regulations, for the SDS Program. All other service providers shall have applicable state licenses, certifications, or other state required documentation, but are exempt from the vendorization requirements set forth in Title 17 of the California Code of Regulations. The financial management services entity shall ensure and document that all service providers meet specified requirements for any service that may be delivered to the participant.



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

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

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

~~(s) A participant enrolled in the SDS Program pursuant to this section and utilizing an individual budget for services and supports is exempt from Section 4783 and from the Family Cost Participation Program.~~

~~(t)~~

(s) Notwithstanding any provision of law, an individual receiving services and supports under the self-determination projects established pursuant to former Section 4685.5 may elect to continue to receive self-determination services within ~~his or her~~ their current scope and existing procedures and parameters. Participation in a self-determination project pursuant to Section former 4685.5 may only be terminated upon a participant's voluntary election and qualification to receive services under another delivery system.

~~(u)~~

(t) Each regional center shall be responsible for implementing an SDS Program as a term of its contract under Section 4629.

~~(v) Commencing January 10, 2008, the~~

(u) The department shall annually provide the following information to the policy and fiscal committees of the Legislature:

(1) Number and characteristics of participants, by regional center.

(2) Types and ranking of services and supports purchased under the SDS Program, by regional center.

(3) Range and average of individual budgets, by regional center.

(4) Utilization of the risk pool, including range and average individual budget augmentations and type of service, by regional centers.

(5) Information regarding consumer satisfaction under the SDS Program and, when data is available, the traditional service delivery system, by regional center.

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

(7) The proportion of participants who report they are able to recruit and hire qualified service providers.

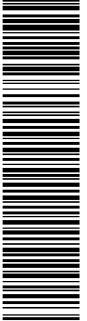
(8) The number and outcome of individual budget appeals, by regional center.

(9) The number and outcome of fair hearing appeals, by regional center.

(10) The number of participants who voluntarily withdraw from participation in the SDS Program and a summary of the reasons why, by regional center.

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

(12) Identification of barriers to participation and recommendations for program improvements.





(13) A comparison of average annual expenditures for individuals with similar characteristics not participating in the SDS Program.

SEC. 5. Section 4783 of the Welfare and Institutions Code is repealed.

4783. (a) (1) The Family Cost Participation Program is hereby created in the State Department of Developmental Services for the purpose of assessing a cost participation to parents, as defined in Section 50215 of Title 17 of the California Code of Regulations, who have a child to whom all of the following applies:

(A) The child has a developmental disability or is eligible for services under the California Early Intervention Services Act (Title 14 (commencing with Section 95000) of the Government Code).

(B) The child is zero to 17 years of age, inclusive.

(C) The child lives in the parents' home.

(D) The child receives services and supports purchased through the regional center.

(E) The child is not eligible for Medi-Cal.

(2) Notwithstanding any other law, a parent described in subdivision (a) shall participate in the Family Cost Participation Program established pursuant to this section.

(3) Application of this section to children zero to two years of age, inclusive, shall be contingent upon approval by the United States Department of Education.

(b) (1) The department shall develop and establish a Family Cost Participation Schedule that shall be used by regional centers to assess the parents' cost participation. The schedule shall consist of a sliding scale for families with an annual gross income not less than 400 percent of the federal poverty guideline, and be adjusted for the level of annual gross income and the number of persons living in the family home.

(2) The schedule established pursuant to this section shall be exempt from the rulemaking provisions of the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code).

(c) Family cost participation assessments shall only be applied to respite, daycare, and camping services that are included in the child's individual program plan or individualized family service plan for children zero to two years of age, inclusive.

(d) If there is more than one minor child living in the parents' home and receiving services or supports paid for by the regional center, or living in a 24-hour out-of-home facility, including a developmental center, the assessed amount shall be adjusted as follows:

(1) A parent that meets the criteria specified in subdivision (b) with two children shall be assessed at 75 percent of the respite, daycare, and camping services in each child's individual program plan or individualized family service plan for each child living at home.

(2) A parent that meets the criteria specified in subdivision (b) with three children shall be assessed at 50 percent of the respite, daycare, and camping services included in each child's individual program plan or individualized family service plan for each child living at home.

(3) A parent that meets the criteria specified in subdivision (b) with four children shall be assessed 25 percent of the respite, daycare, and camping services included in each child's individual program plan or individualized family service plan for each child living at home.



(4) A parent that meets the criteria specified in subdivision (b) with more than four children shall be exempt from participation in the Family Cost Participation Program.

(e) For each child, the amount of cost participation shall be less than the amount of the parental fee that the parent would pay if the child lived in a 24-hour, out-of-home facility.

(f) Commencing January 1, 2005, each regional center shall be responsible for administering the Family Cost Participation Program.

(g) Family cost participation assessments or reassessments shall be conducted as follows:

(1) (A) A regional center shall assess the cost participation for all parents of current consumers who meet the criteria specified in this section. A regional center shall use the most recent individual program plan or individualized family service plan for this purpose.

(B) A regional center shall assess the cost participation for parents of newly identified consumers at the time of the initial individual program plan or the individualized family service plan.

(C) Reassessments for cost participation shall be conducted as part of the individual program plan or individual family service plan review pursuant to subdivision (b) of Section 4646.5 of this code or subdivision (f) of Section 95020 of the Government Code.

(D) The parents are responsible for notifying the regional center when a change in family income occurs that would result in a change in the assessed amount of cost participation.

(2) Parents shall self-certify their gross annual income to the regional center by providing copies of W-2 Wage Earners Statements, payroll stubs, a copy of the prior year's state income tax return, or other documents and proof of other income.

(3) A regional center shall notify parents of the parents' assessed cost participation within 10 working days of receipt of the parents' complete income documentation.

(4) Parents who have not provided copies of income documentation pursuant to paragraph (2) shall be assessed the maximum cost participation based on the highest income level adjusted for family size until the appropriate income documentation is provided. Parents who subsequently provide income documentation that results in a reduction in their cost participation shall be reimbursed for the actual cost difference incurred for services identified in the individual program plan or individualized family service plan for respite, daycare, and camping services, for 90 calendar days preceding the reassessment. The actual cost difference is the difference between the maximum cost participation originally assessed and the reassessed amount using the parents' complete income documentation, that is substantiated with receipts showing that the services have been purchased by the parents.

(5) The executive director of the regional center may grant a cost participation adjustment for parents who incur an unavoidable and uninsured catastrophic loss with direct economic impact on the family or who substantiate, with receipts, significant unreimbursed medical costs associated with care for a child who is a regional center consumer. A redetermination of the cost participation adjustment shall be made at least annually.



~~(h) A provider of respite, daycare, or camping services shall not charge a rate for the parents' share of cost that is higher than the rate paid by the regional center for its share of cost.~~

~~(i) The department shall develop, and regional centers shall use, all forms and documents necessary to administer the program established pursuant to this section. The forms and documents shall be posted on the department's internet website. A regional center shall provide appropriate materials to parents at the initial individual program plan or individualized family service plan meeting and subsequent individual program plan or individualized family service plan review meetings. These materials shall include a description of the Family Cost Participation Program.~~

~~(j) The department shall include an audit of the Family Cost Participation Program during its audit of a regional center.~~

~~(k) (1) Parents of children 3 to 17 years of age, inclusive, may appeal an error in the amount of the parents' cost participation to the executive director of the regional center within 30 days of notification of the amount of the assessed cost participation. The parents may appeal to the Director of Developmental Services, or the director's designee, any decision by the executive director made pursuant to this subdivision within 15 days of receipt of the written decision of the executive director.~~

~~(2) Parents of children 3 to 17 years of age, inclusive, who dispute the decision of the executive director pursuant to paragraph (5) of subdivision (g) shall have a right to a fair hearing as described in, and the regional center shall provide notice pursuant to, Chapter 7 (commencing with Section 4700). This paragraph shall become inoperative on July 1, 2006.~~

~~(3) On and after July 1, 2006, a parent described in paragraph (2) shall have the right to appeal the decision of the executive director to the Director of Developmental Services, or the director's designee, within 15 days of receipt of the written decision of the executive director.~~

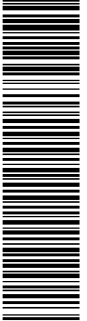
~~(l) For parents of children zero to two years of age, inclusive, the complaint, mediation, and due process procedures set forth in Sections 52170 to 52174, inclusive, of Title 17 of the California Code of Regulations shall be used to resolve disputes regarding this section.~~

~~(m) The department may adopt emergency regulations to implement this section. The adoption, amendment, repeal, or readoption of a regulation authorized by this section is deemed to be necessary for the immediate preservation of the public peace, health and safety, or general welfare, for purposes of Sections 11346.1 and 11349.6 of the Government Code, and the department is exempted from the requirement that it describe specific facts showing the need for immediate action. A certificate of compliance for these implementing regulations shall be filed within 24 months following the adoption of the first emergency regulations filed pursuant to this subdivision.~~

~~(n) By April 1, 2005, and annually thereafter, the department shall report to the appropriate fiscal and policy committees of the Legislature on the status of the implementation of the Family Cost Participation Program established under this section. On and after April 1, 2006, the report shall contain all of the following:~~

~~(1) The annual total purchase of services savings attributable to the program per regional center.~~

~~(2) The annual costs to the department and each regional center to administer the program.~~



- (3) The number of families assessed a cost participation per regional center.
- (4) The number of cost participation adjustments granted pursuant to paragraph (5) of subdivision (g) per regional center.
- (5) The number of appeals filed pursuant to subdivision (k) and the number of those appeals granted, modified, or denied.
- (o) Commencing July 1, 2022, to June 30, 2024, inclusive, regional centers shall suspend existing and new assessments and reassessments of the cost participation. The suspensions shall no longer occur on or after July 1, 2024.

SEC. 6. Section 4785 of the Welfare and Institutions Code is repealed.

4785. (a) (1) A regional center shall assess an annual family program fee, as described in subdivision (b), from parents whose adjusted gross family income is at or above 400 percent of the federal poverty level based upon family size and who have a child to whom all of the following apply:

(A) The child has a developmental disability or is eligible for services under the California Early Intervention Services Act (Title 14 (commencing with Section 95000) of the Government Code).

(B) The child is less than 18 years of age.

(C) The child lives with the child's parent.

(D) The child or family receives services beyond eligibility determination, needs assessment, and service coordination.

(E) The child does not receive services through the Medi-Cal program.

(2) An annual family program fee shall not be assessed or collected pursuant to this section if the child receives only respite, day care, or camping services from the regional center, and a cost for participation is assessed to the parents under the Family Cost Participation Program.

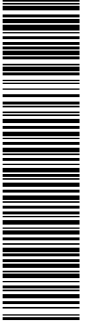
(3) The annual family program fee shall be initially assessed by a regional center at the time of the development, scheduled review, or modification of the individual program plan (IPP) pursuant to Sections 4646 and 4646.5, or the individualized family services plan (IFSP) pursuant to Section 95020 of the Government Code, but no later than June 30, 2012, and annually thereafter.

(4) Application of this section to children zero to two years of age, inclusive, shall be contingent upon necessary approval by the United States Department of Education.

(b) (1) The annual family program fee for parents described in paragraph (1) of subdivision (a) shall be two hundred dollars (\$200) per family, regardless of the number of children in the family with developmental disabilities or who are eligible for services under the California Early Intervention Services Act.

(2) Notwithstanding paragraph (1), parents described in paragraph (1) of subdivision (a) who demonstrate to the regional center that their adjusted gross family income is less than 800 percent of the federal poverty level shall be required to pay an annual family program fee of one hundred fifty dollars (\$150) per family, regardless of the number of children in the family with developmental disabilities or who are eligible for services under the California Early Intervention Services Act.

(c) At the time of intake or at the time of development, scheduled review, or modification of a consumer's IPP or IFSP, but no later than June 30, 2012, the regional center shall provide to parents described in paragraph (1) of subdivision (a) a form and an envelope for the mailing of the annual family program fee to the department. The



form, which shall include the name of the children in the family currently being served by a regional center and their unique client identifiers, shall be sent, with the family's annual program fee, to the department.

(d) The department shall notify each regional center at least quarterly of the annual family program fees collected.

(e) The regional center shall, within 30 days after notification from the department pursuant to subdivision (d), provide a written notification to the parents from whom the department has not received the annual family program fees. Regional centers shall notify the department if a family receiving notification pursuant to this section has failed to pay its annual family program fees based on the subsequent notice pursuant to subdivision (d). For these families, the department shall pursue collection pursuant to the Accounts Receivable Management Act (Chapter 4.3 (commencing with Section 16580) of Part 2 of Division 4 of Title 2 of the Government Code).

(f) A regional center may grant an exemption to the assessment of an annual family program fee if the parents demonstrate any of the following:

- (1) That the exemption is necessary to maintain the child in the family home.
- (2) The existence of an extraordinary event that impacts the parents' ability to pay the fee or the parents' ability to meet the care and supervision needs of the child.
- (3) The existence of a catastrophic loss that temporarily limits the ability of the parents to pay and creates a direct economic impact on the family. For purposes of this paragraph, catastrophic loss may include, but is not limited to, natural disasters, accidents involving, or major injuries to, an immediate family member, and extraordinary medical expenses.

(g) Services shall not be delayed or denied for a consumer or child based upon the lack of payment of the annual family program fee.

(h) For purposes of this section, "parents" means the parents, whether natural, adoptive, or both, of a child with developmental disabilities under 18 years of age.

(i) Parents described in paragraph (1) of subdivision (a) shall be jointly and severally responsible for the annual family program fee, unless a court order directs otherwise.

(j) (1) "Total adjusted gross family income" means income acquired, earned, or received by parents as payment for labor or services, support, gift, or inheritance, or parents' return on investments. It also includes the community property interest of a parent in the gross adjusted income of a stepparent.

(2) The total adjusted gross family income shall be determined by adding the gross income of both parents, regardless of whether they are divorced or legally separated, unless a court order directs otherwise, or unless the custodial parent certifies in writing that income information from the noncustodial parent cannot be obtained from the noncustodial parent and in this circumstance only the income of the custodial parent shall be used to determine the annual family program fee.

(k) Commencing July 1, 2022, to June 30, 2024, inclusive, regional centers shall suspend existing and new assessments, reassessments, and collections of the annual family program fee. The suspensions shall no longer occur on or after July 1, 2024.

SEC. 7. Section 4785.1 of the Welfare and Institutions Code is repealed.

4785.1. On or before January 10, 2023, the State Department of Developmental Services shall submit to the Legislature, as part of the annual budget process, a plan to revise the Family Cost Participation Program, as established pursuant to Section



~~4783, and the annual family program fee, as established pursuant to Section 4785. The plan shall be developed with input from stakeholders. The plan shall consider changes that include, but are not limited to, those that promote administrative efficiency and program compliance.~~

SEC. 8. Section 4785.2 of the Welfare and Institutions Code is repealed.

~~4785.2. Notwithstanding Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, the department, without taking any further regulatory action and after the effective date of statutory suspensions identified in subdivision (o) of Section 4783 and subdivision (k) of Section 4785, may implement, interpret, or make specific the recommendations provided in the plan required by Section 4785.1 by means of program directives or similar instructions to streamline program administration and standardize procedures. It is the intent of the Legislature that the department be allowed this temporary authority as necessary to implement program changes only until completion of the regulatory process.~~

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## LEGISLATIVE COUNSEL'S DIGEST

Bill No. \_\_\_\_\_  
as introduced, \_\_\_\_\_.  
General Subject: Developmental services: regional center fees.

Existing law, the Lanterman Developmental Disabilities Services Act (act), requires the State Department of Developmental Services (department) to contract with regional centers to provide services and supports to persons with developmental disabilities and their families. Existing law establishes the Family Cost Participation Program, which requires the State Department of Developmental Services to develop and establish a Family Cost Participation Schedule, consisting of a sliding scale for families with an annual gross income of not less than 400% of the federal poverty guideline, as specified, to be used by regional centers to assess the parents' cost participation for providing respite, daycare, and camping services to their children under 18 years of age who have developmental disabilities and who are not eligible for Medi-Cal, among other eligibility criteria. Existing law also requires a regional center to assess an annual family program fee, as specified, from parents whose adjusted gross family income is at or above 400% of the federal poverty level and who have a child meeting prescribed requirements, including receiving specified services from a regional center. Existing law requires regional centers to suspend, until June 30, 2024, existing and new assessments and reassessments of the cost participation and existing and new assessments, reassessments, and collections of the annual family program fee.

This bill would repeal those provisions relating to regional center fees, and would make technical, conforming changes.

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

