An act to amend Sections 4783 and 4785 of, and to add Section 4785.2 to, the Welfare and Institutions Code, relating to developmental services.
SECTION 1. Section 4783 of the Welfare and Institutions Code is amended to read:

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 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.

   (A) 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.

   (B) 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.

   (C) 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, December 31, 2023, 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, 2023, January 1, 2024.

SEC. 2. Section 4785 of the Welfare and Institutions Code is amended to read:

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, daycare, 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 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, 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, December 31, 2023, 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, 2023, January 1, 2024.

SEC. 3. Section 4785.2 is added to the Welfare and Institutions Code, to read:
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.

Existing law, the Lanterman Developmental Disabilities Services Act, requires the State Department of Developmental Services to contract with regional centers to provide services and supports to individuals with developmental disabilities and their families. Existing law establishes the Family Cost Participation Program, which requires the department 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, commencing July 1, 2022, to June 30, 2023, inclusive, requires regional centers to suspend existing and new assessments and reassessments of the cost participation and existing and new assessments, reassessments, and collections of the annual family program fee described above.

This bill would require regional centers to suspend, until December 31, 2023, existing and new assessments and reassessments of the cost participation and existing and new assessments, reassessments, and collections of the annual family program fee described above.

Existing law requires the department to submit to the Legislature, on or before January 10, 2023, as part of the annual budget process, a plan to revise the Family Cost Participation Program and the annual family program fee, including consideration of changes that include, but are not limited to, those that promote administrative efficiency and program compliance.

This bill would authorize the department to implement, interpret, or make specific the recommendations provided in the plan submitted to the Legislature, through program directives or other processes, to streamline program administration and standardize procedures.