



California's protection and advocacy system
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#14: Fact Sheet on California's Budget Cuts to Developmental Disability Services & Programs - July 28, 2009

Respite¹

The State Legislature required the Department of Developmental Services (DDS) to reduce the DD Budget by 334 million dollars. As a result, there are changes to the types and amounts of services that regional centers can purchase. This fact sheet describes the changes to respite services, any exceptions to those changes, and what will happen if the regional center wants to change your services.

Respite provides a chance for caregivers to take a break from caring for a consumer. The Lanterman Act currently requires respite to be provided as identified in the IPP (Individual Program Plan) according to you and your family's needs. The changes to the Lanterman Act provide new standards that limit how much respite a regional center may purchase and when respite may be provided. There are exceptions to these standards.

How the Law Changed

The amount and circumstances under which respite services may be purchased for you and your family has changed as follows. There is also an exemption to these rules (see below).

¹ The changes are part of the Budget Trailer Bill (TBL) ABx4 9. You may find the law at http://info.sen.ca.gov/pub/09-10/bill/asm/ab_0001-0050/abx4_9_bill_20090728_chaptered.pdf. The changes affecting Respite are found in Welfare & Institutions Code, Section 4686.5(a).

New Standards for Providing Respite

1. Respite hours will only be awarded when the consumer requires more care and supervision than a person of the same age without developmental disabilities.
- ★ 2. Out-of-home respite will be limited to 21 days per year. In-home respite will be limited to 90 hours per quarter (there are three months in a quarter).

Regional centers cannot purchase day care services to replace respite. Day care services are regular care provided in the parent's home while the parent works or goes to school.

If you are already receiving respite, these changes will not apply until August 1, 2009. If the regional center wants to make changes to your respite, it must give you written notice (See below). If you are not receiving respite currently, then the changes are effective when the TBL is enacted which is July 28, 2009. These changes remain in effect only until DDS determines that the Individual Choice Budget process has been implemented. (See fact sheet about Individual Choice Budget).

IHSS and Respite are Not the Same !

The changes to the law say regional centers can only consider In-Home Supportive Services (IHSS) as a generic resource when the approved IHSS meets the respite need in a consumer's IPP or IFSP (Individualized Family Service Plan). IHSS and respite are usually different services that accomplish different things. IHSS is a service that the county provides when the county pays someone to care for some of a consumer's care needs. The county does not expect the IHSS worker to meet all of your needs while the worker is there.

Respite is a regional center funded service to allow the care provider a break from caring for a consumer. The regional center does expect the respite worker to meet all of your needs while the worker is with you. Your respite should not be reduced simply because your IHSS provider lives with you.

★ **Exemption**

A regional center may make an exemption (exception) to the new respite criteria as follows:

1. The intensity of the consumer's care and supervision needs are such that additional respite is necessary to keep the consumer living at home; or
2. There is an extraordinary event that impacts the family member's ability to meet the care and supervision needs of the consumer.²

What Should You Do If You Think You Qualify For An Exemption

If you need more respite hours than the cap and you qualify for an exemption, you should contact your service coordinator and request an IPP meeting. An IPP meeting must be held within 30 days of your request.³ At the meeting, the IPP team must discuss the exemption criteria and whether the exemption applies to you.

For example, if you think you qualify for the exemption, at the IPP meeting, you should discuss if your care and supervision needs are greater than those of an individual without a developmental disability. You should also discuss the amount of respite you need. If you need more respite than the cap, the IPP team should discuss whether you need more respite to remain at home or any extraordinary event in your family that makes it difficult for the family member to provide respite. If you and the regional center do not agree as to whether you qualify for an exemption, the regional center will provide you with a notice. You can request a hearing. Follow the procedures outlined below.

What Will Happen If the Regional Center Wants to Change Your Services?

If your regional center wants to change your respite services, it must either hold an IPP meeting and reach agreement with you about the change or give you a written notice.⁴ The notice must be given 30 days before the change begins.⁵ The notice must give you the following information:

- the action the regional center is taking;
- the basic facts about why the regional center is making its decision;

² Welfare & Institutions Code, Section 4686.5 (a)(3)

³ Welfare & Institutions Code Section 4646.5(b)

⁴ Usually, decisions about the services you need must be decided by an IPP team. Welfare & Institutions Code Section 4646.4(a)-(c). However, the law says if a regional center wants to reduce, end or change a service in your IPP without your consent, it has to give you a 30 day notice first. Welfare & Institutions Code Section 4710.

⁵ Welfare & Institutions Code Section 4710

- the reason for the action;
- the effective date; and
- the specific law, regulation or policy that supports the action.⁶

If you are already receiving the service and you disagree with the regional center's decision and want to continue to receive it, you must request a fair hearing within 10 days of receiving the notice.⁷ Otherwise, the request must be made within 30 days.⁸ If you think you meet an exemption, remember to additionally put "I meet an exemption" into your fair hearing request.

For more important information on how to appeal decisions by the regional center, read our fact sheet, Due Process and Hearing Rights.

⁶ Welfare & Institutions Code Section 4701. The information must also be in the language you understand.

⁷ Welfare & Institutions Code Section 4715

⁸ Welfare & Institutions Code Section 4710.5 (a)