

2009 Changes to Developmental Disabilities Programs and Services

PowerPoint Developed by
Area Board 10

Adapted by Area Board 9
and OCRA

Background

- Current budget cuts to General Fund = \$26 billion.
- Regional Center budget 3.9 billion.
- 240,000 people who qualify for regional center services.
- Regional Center to take \$334 million cut.
 - In February \$100 million cut.
 - In May \$234 million cut.
 - Governor used his line item veto to make an additional \$50 million cut.
- Stakeholder process to give input to DDS about types of cuts.

Changes to the Lanterman Act

- July 2009 Trailer Bill changes to the Lanterman Act:
 - Early Start Services
 - General Standards
 - Services and supports
 - Introduction of new options
 - Behavior Intervention services
 - Respite
 - Supported living
 - Generic resources and private insurance
 - Least costly provider
 - Day programs/Holidays
 - Parental fees
 - Transportation

Outline of presentation

- Brief overview of regional center process.
- How to appeal decisions.
- Changes and strategies to ensure support.
 - Early Start
 - Non-medical services and therapies
 - General Standards
 - Services and supports
 - Introduction of new options

Regional Centers

- Brief background
- Role
- IPP/IFSP development process
 - Regional center should give 30 days notice.
 - Notice of Proposed Action (NOA) -- Timelines
 - Does there need to be an IPP/IFSP meeting before regional center changes my services?
 - Regional Center is payer of last resort.
 - Appeal rights have changes in some areas (e.g. Early Start At-Risk).

Changes to Early Start

Effective Oct 09 when approved by Federal government

- Eligibility is reduced to Federal requirements.
 - High Risk infants and toddlers will not be eligible.
 - Qualifying is much more difficult.
- Requires family to first use generic resources for which they are eligible and insurance.
- Requires families to participate in behavioral treatments. (there are many different ways to participate)
- Encourages the use of Neighborhood preschools services with qualified staff and supports.
- No longer will fund services that are not federally mandated except durable medical equipment.

Changes to Early Start Services

- “High risk” infants and toddlers will no longer be eligible for Early Start.
 - Will be eligible for a new state-funded prevention program currently under development by DDS.
 - Limited to case management and information & referral to other agencies.

Appeal Strategies: Child might qualify in another category.
Possibly look to more sensitive assessments that can identify disability.

Changes to Early Start Services

- To qualify for Early Start services under the category of having a developmental delay:
 - If the child is under 24 months, the delay must be at least 33% in one or more developmental area.
 - If the child is 24-36 months old, the delay must be 50% in one developmental area or 33% in two or more areas.
- Appeal Strategies: Ensure thorough and accurate assessments to document nature and extent of delays.

Changes to Early Start Services

• Regional centers will no longer fund services that are not required by the federal government. A few of those are:

- Child care
- Diapers
- Dentistry
- Interpreter
- Translator
- Genetic counseling
- Music therapy
- Social recreation programs
- Housing
- Medical service unrelated to the child's development
- Hospitalization
- Immunizations
- Well-baby care
- Family or marital counseling unrelated to the infant's development
- Substance abuse counseling
- *Durable Medical Equipment (DME) is still paid by the Regional Center even though it isn't covered under federal law.

– Appeal Strategies: None under Early Start Program.

- May be able to access some of these services if child is qualified as eligible for services under the Lanterman Act.
- *Pending approval of the Federal Office of Special Education Programs, changes will take place as of October 1, 2009.

Changes to Early Start Services

- Requires regional center to consider funding integrated neighborhood preschools and funding qualified personnel rather than specialized infant development programs established for children with special needs.
- Appeal Strategies: Must be able to document that child's needs can only be met by utilizing an infant development program.

Changes to Early Start: Private Insurance

- Parents must access their private insurance for medical services that are identified in the IFSP (see exemption below).
- This requirement does not apply to evaluation and assessment.

Exemption: Parents are not mandated to use private insurance if it is prohibited by some other federal or state law or regulation.

Changes to Non-Medical Services & Therapies

- Access to In-Home Behavioral Intervention services will be limited.
- In-home behavioral services will be available, if parents participate in the intervention program.
- There are different types of parent participation. One type of parent participation is group instruction.
 - This requirement applies to children served under Early Start as well as under the Lanterman Act.

Exemption: Document that delay in starting the class will negatively impact the child.

Changes to Non-Medical Services & Therapies

- **Camp services, social recreation services, educational services and nonmedical therapies (art, music, equestrian, aquatic, dance, gymnastics) are being “suspended”** – meaning regional centers will no longer fund these services but the state is supposed to “reinstate” when the Individual Choice Budget model is developed.

An exception may be made based on “extraordinary circumstances” when:
“the service is a primary or critical means for ameliorating (improving) the physical, cognitive, or psychosocial effects of the consumer’s developmental disability” OR
the service is essential to maintaining the person in his home and no other alternative service is available.

Respite

- **Respite Services will be limited temporarily.**
 - Out of home respite will be limited to a maximum of 21 days per year.
 - In-home respite will be limited to a maximum of 90 hours per quarter.
 - Until the implementation of the Individual Choice Budget model.

Exemption : An exception may be made if one of the following applies:

- “the intensity of the consumer’s care and supervision needs are such that additional respite hours are needed to maintain the consumer in the family home” **OR**
- there is an extraordinary event that impacts the family member’s ability to care for the consumer.

Least Costly Provider

- **The least costly provider who can deliver the needed service, consistent with the IPP, shall be used unless it is a more restrictive or less integrated service than currently utilized.**

Appeal Strategies: Must be able to document that the proposed provider cannot accomplish the goals identified in the IPP or properly address the needs. May need to demonstrate that the proposed provider does not have appropriate training, language capacity, peer group, physical site needs or other specifics that apply to the particular consumer. (Note: definition of “least costly” includes federal financial participation and the cost of transportation to and from that program.)

Changes to General Standards

- Regional centers cannot fund experimental treatments, therapeutic services, or devices that have not been clinically determined or scientifically proven to be effective or safe or for which risks and complications are unknown.

Appeal Strategies: Must demonstrate that the requested service is not experimental.

Use of Generic Services and Private Insurance

- **Regional Centers shall not purchase any service that would otherwise be available from Medi-Cal, Medicare, the Civilian Health and Medical Program for Uniform Services, IHSS, CCS, private insurance or a health care service plan when the consumer or a family meets the criteria of this coverage but chooses not to pursue that coverage.**
- **Regional Center shall not purchase medical or dental services for a consumer three years of age or older unless the regional center is provided with documentation of a Medi-Cal, private insurance, or a health care service plan denial and the regional center determines that an appeal by the consumer or family does not have merit.**
- **Regional Centers may pay for medical or dental services during the following periods:**
 - *while the coverage is being pursued, but before a denial is made;
 - *pending a final administrative decision on an appeal if the family provides the regional center a verification that an administrative appeal is being pursued; or
 - *until commencement of services by Medi-Cal, private insurance or a health care service plan.

Appeal Strategies: Regional centers can require the consumer (must be over 3 years of age and only for medical and dental) to appeal a denial from one of these alternative insurers unless they determine that the appeal has no merit. Accordingly, one should document how the requested service/treatment is clearly outside the accepted coverage available from the insurer. (Note: the new language does not require consumers to exhaust every existing generic resource if they clearly do not qualify for the requested service.)

Supported Living Services

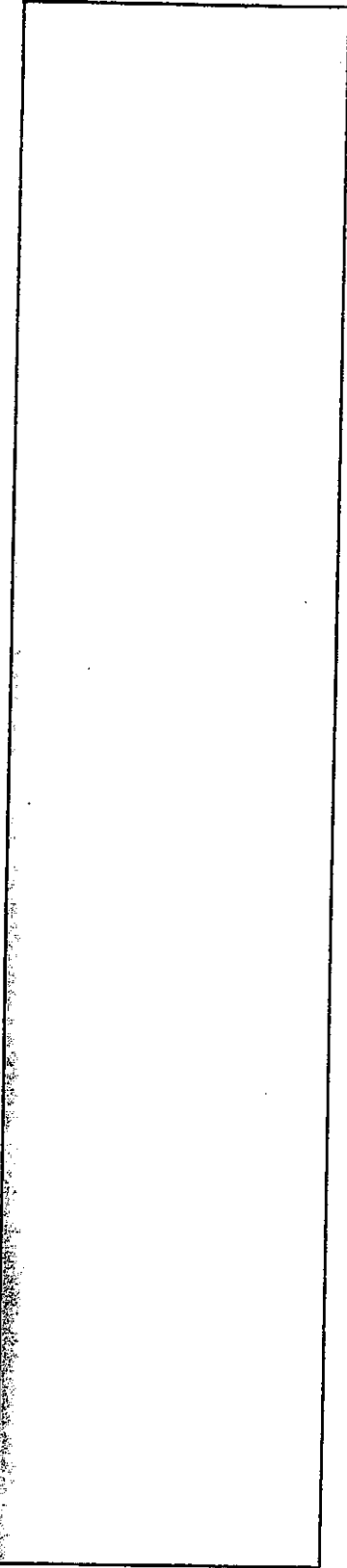
- Regional Centers shall ensure the most cost effective rate methodology is utilized to determine SLS providers rates.
- Regional Centers will not be able to pay a consumer's rent, mortgage, or lease payments or pay for household expenses. Under limited circumstances the regional center can pay for these expenses but not for more than 6 months unless the regional center finds it is necessary to meet the consumer's particular needs pursuant to the IPP.
- Regional centers will attempt to have all individuals who share a home use the same SLS provider, provided that each person's needs can be met.
- When a person moves into supported living, the provider will help the person get IHSS within 5 days of moving.

Changes to Transportation Services

- Regional centers shall not fund private specialized transportation services for an adult consumer who can safely access and utilize public transportation, when it is available.
- The regional centers shall fund the least expensive transportation modality that meets the consumer's needs as set forth in the IPP.
- For minor children living with parents transportation funded only if family can not provide and parent makes a written request and provides documentation to substantiate need.

Uniform Holidays

- No compensation to day programs, behavioral management programs, infant development programs, and social recreation programs on the 14 days established by Department of Developmental Services. This includes transportation.



New Opportunities

= Self-Directed Services

- DDS/regional centers will be introducing an **Individual Choice Budget Model** to offer consumers the option of self-directing their own services within a reduced, finite budget amount. Stay tuned for information about this plan which will probably roll out in 2010.
- DDS/regional centers will be introducing a “**Custom Endeavors Option**” which requires day programs to offer customized work or volunteer programs in place of the consumers program. There will be a limit on the number of hours – between 20-80hrs per month.
- Creates a **Senior Program** for individuals of 50 years of age and over who would like to retire. Program will focus on the needs of people with developmental disabilities who are over 50 years of age. The staff ratio will be 1:8.

up to

Changes to other Services and Supports

- Adults who receive Medi-Cal are losing coverage for “optional benefits.” These include:
 - All dental care
 - All optometry – eye exams, eyeglasses, contact lenses
 - Mental Health Services/Psychology – visits to therapist
 - Audiology – hearing aids
 - Podiatry – foot care
 - Incontinence supplies
 - Acupuncture
 - Speech therapy
 - Chiropractic services

Appeal Strategies: As the payer of last resort, you may request that regional centers purchase the above services when they are not otherwise available. The Department of Developmental Services (DDS) secured additional funds from the Legislature to cover these services.

Who Can I Turn to For Help?

- Disability Rights California, Office of Clients' Rights
Advocacy 805-884-7297
 - www.disabilityrightsca.org
- Disability Rights California 800-776-5746
 - www.disabilityrightsca.org
- Area Board 9 805-648-0220
 - www.areaboard9.org
- Rights Under the Lanterman Act
 - www.disabilityrightsca.org/pubs/506301index.htm
- CA Disability Community Action Network (CDCAN) –
www.cdcan.us
 - You can sign up for free, informative newsletters.