

Date of Hearing: April 9, 2024

ASSEMBLY COMMITTEE ON HUMAN SERVICES

Alex Lee, Chair

AB 2423 (Mathis) – As Amended March 21, 2024

**SUBJECT:** Developmental services: rates

**SUMMARY:** Commencing July 1, 2025, and contingent upon the appropriation of funds by the Legislature in the annual Budget Act and approval of federal funding, requires the Department of Development Services (DDS) to review and update the rate models per the cost inputs available at the time of the review and post the updated rate models on its website no later than January 1 of the following year.

**EXISTING LAW:**

- 1) Establishes an entitlement to services for individuals with developmental disabilities under the Lanterman Developmental Disabilities Services Act (Lanterman Act). (Welfare and Institutions Code [WIC] § 4500 *et seq.*)
- 2) Grants all individuals with developmental disabilities, among all other rights and responsibilities established for any individual by the United States Constitution and laws and the California Constitution and laws, the right to treatment and habilitation services and supports in the least restrictive environment. (WIC § 4502)
- 3) Establishes a system of nonprofit regional centers throughout the state to identify needs and coordinate services for eligible individuals with developmental disabilities and requires DDS to contract with regional centers to provide case management services and arrange for or purchase services that meet the needs of individuals with developmental disabilities, as defined. (WIC § 4620 *et seq.*)

**FISCAL EFFECT:** Unknown, this bill has not been analyzed by a fiscal committee.

**COMMENTS:**

**Background:** *Lanterman Act.* California's Lanterman Act originally was passed in 1969. The Lanterman Act provides entitlement to services and supports for individuals three years of age and older who have a qualifying developmental disability. Qualifying disabilities include autism, epilepsy, cerebral palsy, intellectual disabilities, and other conditions closely related to intellectual disabilities that require similar treatment. To qualify, an individual must have a disability that is substantial that began before the age of 18 and is expected to be life-long. There are no income-related eligibility criteria.

Direct responsibility for implementation of the Lanterman Act service system is shared by DDS and a statewide network of 21 regional centers, which are private, community-based nonprofit entities, established pursuant to the Lanterman Act, that contract with DDS to carry out many of the state's responsibilities under the Act. As of August 2023, the 21 regional centers served 459,395 consumers, providing services such as:

- Information and referral;

- Assessment and diagnosis;
- Counseling;
- Lifelong individualized planning and service coordination;
- Purchase of necessary services included in the individual program plan;
- Resource development;
- Outreach;
- Assistance in finding and using community and other resources;
- Advocacy for the protection of legal, civil, and service rights;
- Early intervention services for at-risk infants and their families;
- Genetic counseling;
- Family support;
- Planning, placement, and monitoring for 24-hour out-of-home care;
- Training and educational opportunities for individuals and families; and,
- Community education about developmental disabilities.

*Recent History of the DDS Rate Reform.* The rate study initiated in 2016 was undertaken, in part, because the historical rate structure did not result in funding levels for service providers that kept pace with system growth or supported an adequate supply of providers. A series of rate freezes and rate reductions—beginning in the early 2000s as budget solutions—meant that the rates had not kept up with rising costs over time. The funding first allocated in 2021-22 was intended to raise funding levels for service providers by increasing service provider rates. These rates fund the wide variety of services and supports that service providers deliver to DDS consumers, including residential services, day programs, employment support, independent and supported living, and personal assistance.

The original plan for service provider rate reform established a five-year implementation time line starting in 2021-22. Under this plan, the final rate adjustment would occur in 2025-26. The original timeline included the following steps:

- **Year 1 (2021-22).** Service provider rates increase beginning April 1, 2022. Rate increases equal one-quarter of the difference between a provider's current rate and what the fully funded rate model (as of 2021-22) would be according to the rate study.
- **Year 2 (2022-23).** The previous year's rate increase is annualized and DDS implements the first stage of the quality incentive program.

- **Year 3 (2023-24).** The cumulative total of this rate increase and the previous increase equals one-half of the difference between the provider's rate as of March 30, 2022, (before the first rate increase took effect) and the fully funded rate model. Additional funding is provided for the quality incentive program.
- **Year 4 (2024-25).** Rates will sustain the previous years' changes.
- **Year 5 (2025-26).** Rate models will be fully funded beginning July 1, 2025, as follows: A service provider's base rate will equal 90% of its rate model, while up to 10% of its rate model will be available as incentive payments if the provider achieves its performance and outcomes targets.

The 2022-23 budget accelerated the implementation timeline from five to four years by eliminating the step planned for Year 4 under the original timeline. The accelerated timeline included the following steps:

- **Year 1 (2021-22) to Year 3 (2023-24).** This was the same as the original plan described above.
- **Year 4 (2024-25).** Rate models will be fully funded beginning July 1, 2024, as follows: A service provider's base rate will equal 90% of its rate model, while up to 10% of its rate model will be available as quality incentive payments if the provider achieves specified performance and outcome targets.

*Governor's 2024-25 Rate Delay Proposal.* The Governor's budget proposes to delay the final stage of service provider rate reform implementation by one year to 2025-26. Under the proposal, rate models would be fully funded as of July 1, 2025, rather than July 1, 2024. This rate delay conversation is currently taking place in Assembly Budget Subcommittee No. 2 and Senate Budget Subcommittee No.3.

*This bill* proposes that DDS examine rates on a regular basis every other year. Low rates are a barrier to staff retention. In 2022, the State Auditor found that "DDS has not adequately addressed funding issues that make it difficult for regional centers to meet caseload ratios." Their findings in 2022 also highlighted that staff salaries were not updated for 30 years due to the staff formula not being updated. This negatively impacted caseload ratio and services given to communities.

Typically, rate discussions take place in the context of the State Budget within the Budget Committees. While this bill does not establish rates and is contingent on funding, posting rate studies would likely create cost pressure if rates were found to be lower than analogous settings.

**Author's Statement:** According to the Author, "The treatment and care for those within the IDD community is not, and should not, be a partisan issue. The state has the responsibility to provide care and support for the most vulnerable and marginalized communities within California. AB 2423 addresses a long standing funding issue, and ensures that regional centers are provided with the necessary resources to provide those within the IDD community with the services and care they deserve."

**Equity Implications:** DDS service delivery ranges wildly from each of the 21 regional centers. Inequities stem from varying services provided, the number of vendors, boards controlling the

regional center, and budgets. For example, the 2022 State Audit report showed that the North Bay Regional Center had 9,500 consumers, 2,500 service providers, and a budget of \$400 million while Alta Regional Center had 2.84 % more consumers at 27,000, but only 1.6% more in budget at \$65 million, and less service vendors at 1,500. These regional inequities contribute to different access and care.

#### **RELATED AND PRIOR LEGISLATION:**

*AB 649 (Wilson) of 2023*, would have permitted regional centers to purchase services that would otherwise be available from other specified means when a consumer or a consumer's representative chooses not to pursue coverage despite eligibility. *AB 649 was held on the Assembly Committee on Appropriations Suspense file.*

*AB 1957 (Wilson), Chapter 314, Statutes of 2022*, added additional data points to the set of data that DDS and regional centers must report. These additional data mostly relate to services that were cut during the pandemic and recently restored, including social recreation, camping, educational services, and nonmedical therapies such as art, dance, and music. AB 1957 also added untimely translations of an individual program plan in a threshold language to be included in the set of data.

*AB 1 X2 (Thurmond), Chapter 3, Statutes of 2016*, authorized the Service Access and Equity grant program through which \$11 million in ongoing General Fund resources for DDS was provided to assist regional centers in reducing purchase of service disparities.

#### **REGISTERED SUPPORT / OPPOSITION:**

##### **Support**

Association of Regional Center Agencies  
California Community Living Network  
California Disability Services Association  
Easterseals Northern California  
Educate. Advocate.

##### **Opposition**

None on file.

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