

Date of Hearing: April 23, 2019

ASSEMBLY COMMITTEE ON HUMAN SERVICES
Eloise Gómez Reyes, Chair
AB 1643 (Eduardo Garcia) – As Amended March 28, 2019

SUBJECT: Developmental services

SUMMARY: Requires each regional center to post policies, guidelines, or assessment tools used to determine the service needs of a consumer on its internet website, includes policies, guidelines, or assessment tools among the materials that the Department of Developmental Services (DDS), as part of its responsibility to monitor regional centers, must collect and review, requires DDS to ensure that those policies, guidelines, or assessment tools are available to the public, and makes technical changes.

EXISTING LAW:

- 1) Establishes the Lanterman Developmental Disabilities Services Act (Lanterman Act), which declares California’s responsibility for providing an array of services and supports to meet the needs of each person with developmental disabilities in the least restrictive environment, regardless of age or degree of disability, and to support their integration into the mainstream life of the community. (Welfare and Institutions Code [WIC] Section 4500, *et seq.*)
- 2) Establishes a system of nonprofit regional centers to provide fixed points of contact in the community for all persons with developmental disabilities and their families, to coordinate services and supports best suited to them throughout their lifetime. (WIC 4620)
- 3) Creates a process by which regional centers may “vendorize” service providers, thereby providing a path to contract for services with that provider and ensuring maximum flexibility and availability of appropriate services and support for persons with developmental disabilities. (WIC 4648)
- 4) Requires regional centers to provide the consumer, their parent, legal guardian, or other appropriate authorized representative, as specified, at least annually, a statement of services and supports the regional center purchased, for the purpose of ensuring that the services are delivered. (WIC 4648(h))
- 5) Requires each regional center, in order to promote transparency, to include on its internet website, certain information, including: regional center annual independent audits; biannual fiscal audits conducted by DDS; contract awards, including the organization or entity awarded the contract; and the amount and purpose of the award, and purchase of services policies, among others things. (WIC 4629.5(b))
- 6) Requires DDS, as part of its responsibility to monitor regional centers, to collect and review printed materials used by the regional centers, including, but not limited to, purchase of services policies, and other policies and guidelines utilized by regional centers when determining the service needs of a consumer, instructions and training materials for regional center staff, board meeting agendas and minutes, and general policy and notifications provided to all providers and consumers and families. (WIC 4434(d))

- 7) States Legislative intent that the individual program plan (IPP) and provision of services and supports by the regional center system is centered on the individual and the family of the individual with developmental disabilities, and that the IPP is developed through a process of individualized needs determination. (WIC 4646)
- 8) Requires the planning process for an IPP include: a statement of goals, based on the needs, preferences, and life choices of the individual with developmental disabilities; consideration of the Employment First Policy for transition age youth or working age adults; and a schedule of regular periodic review and reevaluation to ensure that planned services have been provided, among other components. (WIC 4646.5)
- 9) Requires each regional center to include on its internet website purchase of service policies, and further requires, for respite service, regional centers to include any procedures and assessment tools used by the regional center to determine the level of services needed by each consumer. (WIC 4690.2(c))

FISCAL EFFECT: Unknown

COMMENTS:

Developmental Services: The Lanterman Act, adopted in 1977, established that individuals with developmental disabilities and their families have the right to receive services and supports necessary to live independently in the community. The Lanterman Act outlines the rights of individuals and their families, what services are available to them, and how regional centers and service providers may best serve these individuals. The term “developmental disability” is defined as a disability that presents before an individual reaches 18 years of age, is expected to continue indefinitely, and is a significant disability for that individual; such disabilities include epilepsy, cerebral palsy, and autism spectrum disorder, among others. Additionally, part of the Lanterman Act’s legacy is the creation of California’s 21 regional centers, which are tasked with providing information to, and helping coordinate services and supports for, individuals with developmental disabilities and their families.

Regional centers: It should be noted that regional centers do not directly provide services to individuals, but, rather, help link individuals to service providers in the community. Because of this, their primary objective is to provide diagnosis and eligibility assessment of individuals, and then contract with and provide funding to vendors in the surrounding area to provide services to regional center consumers. However, before a vendor can provide services to a consumer, the vendor must undergo the “vendorization” process, in which the provider applies for contracts that enable them to serve individuals in the community. The vendorization process enables regional centers to verify that an applicant meets specific requirements and standards prior to the provision of services to consumers. While the vendorization process makes a provider eligible to provide services paid for by regional centers, there is no guarantee that a regional center will refer customers to any given vendor. It is also possible for a vendor to be vendorized by more than one regional center, which allows vendors to serve consumers in multiple catchment areas. Approximately 340,000 individuals receive services and supports through the regional center system.

Individual Program Plans (IPPs): When someone is determined to be eligible for regional center services, the IPP process assists the individual with developmental disabilities, or their family or representative, in developing a plan that will provide the supports and services that the individual

needs, but that also help the individual identify and work towards identified goals. The IPP process consists of a series of interactions and discussions among a team of people, including regional center staff, who are tasked with helping to develop a description in the IPP, referred to as a “preferred future.” A preferred future can include: the individual’s current situation, preferred place to live, preferred jobs, preferred types of daily activities, and overall goals. The IPP process is intended to identify a person’s unique strengths and abilities in order to identify the services and supports that will best support their ability to live in the community as independently as possible.

Transparency in the developmental services system: In recent years, Legislation has been introduced to increase transparency among the various components of the developmental services system, including regional center and DDS activities, as much of a regional center’s operational practices are determined by administrators and boards of directors. Such legislation includes:

- SB 853 (Committee on Budget), Chapter 50, Statutes of 2018, sought to ensure the means used to determine the level of respite services a consumer is eligible for are made available to the public by requiring each regional center to include on its internet website any procedures and assessment tools used to determine the level of respite services needed by a consumer.
- SB 134 (Hernández), Chapter 975, Statutes of 2018, sought to increase transparency about the costs of regional center operations and compensation of management by requiring regional centers to include information about managers’ salaries, wages, and benefits on its internet website. SB 134 also required certain regional center contracts to include procedures for employee retention when operation of a regional center is transferred to a new contractor.
- AB 959 (Holden), Chapter 474, Statutes of 2017, sought to increase transparency about what services are available to regional consumers by requiring DDS to establish and maintain a page on its internet website that includes a list of what services are purchased or provided by regional centers, and also required regional centers to provide a link to the page on their own internet websites. AB 959 sought to address issues of disparities in accessing services by ensuring that regional center consumers are made aware of services that are available to them and for which they may be eligible.

Dispute resolution and the fair hearings process: California also provides individuals with the ability to challenge decisions made by the regional centers when consumers disagree with a decision. The fair hearing process begins with a voluntary meeting between the consumer or their representative and the regional center director or their designee in an attempt to resolve the issue at hand. If a consumer is still dissatisfied with a decision following the voluntary meeting, they may attempt to engage the regional center in mediation, although a regional center may choose to deny mediation proceedings. If a regional center accepts mediation, the process is conducted by a mediator provided by the Office of Administrative Hearings in an informal manner. If mediation is denied or a consumer withdraws from mediation, the dispute proceeds to a fair hearing. At that point, a hearing is conducted by an Administrative Law Judge employed by the Office of Administrative Hearings, and a final decision is required to be made within 90 days of the regional center receiving the fair hearing request form. The provisions of this bill may result in a reduced need for consumers to use dispute resolution and the fair hearings process, as the guidelines, assessments, and processes used to make decisions about services

would be available publicly, thereby ensuring that consumers understand the process by which services are approved or denied.

Need for this bill: The provisions of this bill would further both current and previous attempts to increase transparency in the developmental services system by expanding upon the information that regional centers are already required to include on their internet website to include purchase of service policies, guidelines or assessment tools that are used to determine the service needs of a consumer. The bill also requires DDS to collect and review assessment tools and ensure that purchase of service policies and tools are made available to the public.

According to the author, “Established through the Lanterman Act and under the jurisdiction of the Department of Developmental Services, regional centers throughout California are private non-profit organizations that provide and coordinate services and supports for individuals with developmental disabilities such as respite and supported living services. Regional centers’ day-to-day operations are up to the discretion of their board of directors and administration. Due to lack of accountability and transparency, many regional center consumers are not being made aware of purchase of service policies, internal guidelines, protocols, and assessment tools used to determine consumer service needs. These services all require regional centers to make a needs assessment and determine an authorized number of hours. The process for doing so, the factors considered, and any assessment tools should be available to the consumer to aid in preparing for the IPP meeting to discuss such a need. Unfortunately, such processes are not currently available.”

RELATED AND PRIOR LEGISLATION:

AB 813 (Frazier) of 2019 requires regional centers to establish a dispute resolution program, and establishes within DDS the Developmental Disabilities Resolution Advisory Council to promulgate regulations for the dispute resolution programs. AB 813 is scheduled to be heard in the Assembly Judiciary Committee on April 23, 2019.

SB 134 (Hernández), Chapter 975, Statutes of 2018, required regional centers to include information about managers’ salaries, wages, and benefits on a regional center’s internet website for purposes of promoting transparency.

SB 853 (Committee on Budget), Chapter 50, Statutes of 2018, required each regional center to include on its internet website any procedures and assessment tools used by the regional center to determine the level of respite services needed by each consumer.

AB 959 (Holden), Chapter 474, Statutes of 2017, required DDS to establish and maintain in its internet website a page that includes a list and description of services purchased or provided by regional centers, and requires regional centers to include a link to this page on its internet website.

AB 1753 (Holden) of 2014 would have authorized a service vendor to provide services in a consumer’s IPP upon the request of a consumer or their representative if the service vendor is not vendorized by the regional center serving the consumer but is vendorized by another regional center and met specified criteria. AB 1753 was held in the Assembly Human Services Committee.

SB 468 (Emmerson and Beall), Chapter 683, Statutes of 2013, required DDS, upon approval of federal funding, to establish and implement a state Self-Determination Program for regional center consumers that grants program participants and their families an individual budget and increased flexibility, choice, and greater control over decisions, resources, and services and supports to implement their IPP.

REGISTERED SUPPORT / OPPOSITION:

Support

Disability Rights California (Sponsor)
Autism Society of America, Coachella Valley
State Council on Developmental Disabilities
United Cerebral Palsy of the Inland Empire

Opposition

None on file

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