

Date of Hearing: March 26, 2019

ASSEMBLY COMMITTEE ON HUMAN SERVICES

Eloise Gómez Reyes, Chair

AB 261 (Mathis) – As Introduced January 24, 2019

SUBJECT: Developmental services: regional centers: suspension of services

SUMMARY: Repeals the prohibition on a regional center’s ability to purchase camping services and associated travel expenses, and social recreation activities, as specified, and makes technical changes.

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) Requires the development of an Individual Program Plan (IPP) for each regional center consumer, which specifies services to be provided to the consumer, based on their individualized needs determination and preferences, and defines that planning process as the vehicle to ensure that services and supports are customized to meet the needs of consumers who are served by regional centers. (WIC 4512)
- 4) Establishes a system of 21 nonprofit regional centers throughout the state to identify needs and coordinate services for eligible individuals with developmental disabilities and requires the Department of Developmental Services (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.*)
- 5) 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 supports for persons with developmental disabilities. (WIC 4648)
- 6) 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)
- 7) Requires DDS, in consultation with stakeholders, to develop an alternative service delivery model that provides an Individual Choice Budget (ICB) for obtaining quality services and supports which provides choice and flexibility within a finite budget that in the aggregate reduces regional center purchase of service expenditures, reduces reliance on the state fund, and maximizes federal financial participation in the delivery of services, and further requires

the individual budget be determined using a fair, equitable, transparent standardized process. (WIC 4648.6)

- 8) Suspends the ability of a regional center to purchase certain services, including camping services and associated travel expenses; social recreation activities, except for those activities vendored as community based day programs; educational services for children three to 17, inclusive, years of age; and nonmedical therapies, including, but not limited to specialized recreation, art, dance, and music, pending implementation of the Individual Choice Budget. (WIC 4648.5 (a))
- 9) Requires DDS to implement a statewide Self-Determination Program in order to provide participants and their families, within an individual budget, increased flexibility and choice, and greater control over decisions, resources, and needed and desired services and supports to implement their IPP. (WIC 4685.8)

FISCAL EFFECT: Unknown

COMMENTS:

Developmental Services: The Lanterman Developmental Disabilities Act (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. It is important to note that regional centers do not directly provide services to individuals, but, rather, help link individuals to service providers in the community.

Regional centers: Because regional centers do not directly provide services, their primary objective is to contract with and supply 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.

Effects of the economic downturn: As a result of the economic downturn associated with the Great Recession, and in response to budgetary constraints, the State of California sought to reduce expenditures wherever possible. In response, DDS, the state department responsible for providing services pursuant to the Lanterman Act, began implementing numerous cost-saving measures, including restrictions and freezes on vendor rates, and reductions in regional center

operations funding and provider payments, among others. In 2009, ABX4 9 (Evans), Chapter 9, Statutes of 2009, required DDS, in consultation with stakeholders, to develop an alternative service delivery model that, through an ICB, provided regional center consumers with quality services and supports within a finite budget. The intent of the ICB was to ultimately reduce regional center purchase of service expenditures in order to maximize federal financial participation, and relieve pressure on the state general fund. ABX4 9 also suspended the purchase of camping services, social recreation activities (except those vendored as Day Programs), educational services for children aged 3 to 17 years, and non-medical therapies, such as music, dance, and art, pending the implementation of the ICB. At the time of implementation, it was estimated that the suspension of these services would have saved \$27.4 million (General Fund) in 2009-10. To date, the ICB has not been enacted.

The provisions of this bill would remove social recreation and camping services from the list of services a regional center is prohibited from purchasing pending the implementation of the ICB. An August 2018 report by the Legislative Analyst's Office (LAO) estimates that the cost to restore social recreation and camping services is around \$25 million from the General Fund.

Self-determination: In October 2013, SB 468 (Emmerson and Beall), Chapter 683, Statutes of 2013, was signed into law and created the Self-Determination Program within California's regional center system, contingent on federal funding approval. The intent of the legislation was to ensure person-centered planning for individuals with developmental disabilities, and to allow individuals and their families the opportunity to choose and direct the services and supports they receive through their regional center. The legislation outlined the five principles of self-determination, which, according to DDS, include:

- 1) "Freedom to exercise the same rights as all citizens; to establish, with freely chosen supports, family and friends, where they want to live, with whom they want to live, how their time will be occupied, and who supports them;
- 2) Authority to control a budget in order to purchase services and supports of their choosing;
- 3) Support, including the flexibility to live in the community of their choice;
- 4) Responsibility, which includes the opportunity to take responsibility for making decisions in their own lives and accept a valued role in their community; and,
- 5) Confirmation, in making decisions in their own lives by designing and operating the service that they rely on."

In December 2014, DDS announced that a Home and Community-Based Services (HCBS) Waiver application seeking federal funding for the Self-Determination Program had been submitted to the federal Centers for Medicare and Medicaid (CMS). In June 2018, after several resubmissions of the waiver as a result of ongoing discussions between DDS and CMS, DDS announced that the HCBS waiver had been approved. In October 2018, DDS announced that an initial 2,500 participants had been selected to participate in the Self-Determination Program. Implementation of the Self-Determination Program is still ongoing.

Special session legislation: In June 2015, Governor Jerry Brown convened a special Legislative session to examine health and human services issues; specifically, the session included a focus on whether funding and rates for community service providers serving individuals with

disabilities are adequate. As a result, ABX2-1 (Thurmond), Chapter 3, Statutes of 2016, was signed into law and directly appropriated \$287 million General Fund monies for select increases to regional centers and community service providers for 2016-17. Additionally, the legislation required DDS to conduct and submit a rate study to the Legislature no later than March 2019 addressing the sustainability, quality, and transparency of community-based services for individuals with developmental disabilities. The rate study was received by the Legislature on March 15, 2019, and is currently undergoing public comment until April 5, 2019.

Need for this bill: The provisions of this bill would restore the ability of regional centers to purchase social recreation and camping services by removing them from the list of services that regional centers are prohibited from purchasing, pending implementation of the Individual Choice Budget. The ICB, which was initially conceived as a cost-savings measure in response to the economic downturn, was never implemented, and thus, the services dependent on implementation of the ICB were never restored.

The Self-Determination Program, approved in 2013, embraced the same principle upon which the ICB was conceived: that an individual should have the ability to choose the services and supports that best serve their needs and goals. As of October 2018, 2,500 individuals had been selected to participate in the Self-Determination Program, and implementation of the program is still ongoing. Currently, it is unclear when the Self-Determination Program will be available to all regional center consumers throughout the state. Furthermore, it is unclear whether all regional center consumers would choose to participate in the Self-Determination Program, or if some consumers would prefer a more traditional method of service selection through a services coordinator.

Currently, only those individuals who participate in the Self-Determination Program would have the ability of choosing social recreation and camping services; for those individuals who choose to work with a services coordinator and wish to participate in social recreation and camping services, access would be denied under current law. The provisions of this bill seek to allow all regional consumers, be they participants in the Self-Determination Program or consumers who choose to work with a services coordinator, to access social recreation and camping services.

According to the author, “Social recreation and camps are high-value, low-cost services that have life-changing benefits for individuals and families. Restoring social recreation and camp services will allow people with Intellectual and Developmental Disabilities to thrive in a variety of inclusive environments, ensuring that children and adults have access to opportunities that meet their individual and personalized needs. [This bill] achieves these ends by reinstating the regional center’s authority to offer and fund social recreation and camp services. Through these efforts, we can affirm our commitment to the Intellectual and Developmental Disabilities community and to enhancing the quality of life for each person in an inclusive way.”

PRIOR LEGISLATION:

ABX2 1 (Thurmond), Chapter 3, Statutes of 2016, appropriated, among other things, \$287 million General Fund monies for increases to regional centers and community service providers in 2016- 17, imposed reporting requirements to ensure proper allocation of funds and program accountability, and required DDS to conduct and submit to the Legislature a study examining the sustainability, quality, and transparency of community-based services.

SB 468 (Emmerson and Beall), Chapter 683, Statutes of 2013, created the Self-Determination program within California's regional center system.

AB 1244 (Chesbro) of 2011 would have created a self-determination program to provide individuals with a single, capitated funding allocation they may use to purchase services that support goals identified in their IPP. AB 1244 was held in the Senate Human Services Committee.

ABX4 9 (Evans), Chapter 9, Statutes of 2009, suspended a regional center's ability to purchase certain services, including camping services and social recreation activities, pending the implementation of the Individual Choice Budget.

AB 131 (Assembly Budget Committee), Chapter 80, Statutes of 2005, established a self-directed services option statewide, contingent upon approval of a federal waiver.

SB 1038 (Thompson), Chapter 1043, Statutes of 1998, authorized the creation of pilot projects for self-determination at three regional centers.

REGISTERED SUPPORT / OPPOSITION:

Support

Association of Regional Center Agencies
Disability Rights California
Educate. Advocate.
Empower Family California
State Council on Developmental Disabilities

Opposition

None on file

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