

Date of Hearing: April 23, 2019

ASSEMBLY COMMITTEE ON HUMAN SERVICES

Eloise Gómez Reyes, Chair

AB 641 (Frazier) – As Amended March 21, 2019

SUBJECT: Developmental services: integrated competitive employment

SUMMARY: Allows a regional center consumer to request tailored day services in conjunction with their existing day program, and requires habilitation services to provide community-based vocational development services in order to increase integrated competitive employment outcomes and reduce purchase-of-service costs for working age adults. Specifically, **this bill:**

- 1) Allows a consumer who is in a supported employment program or work activity program, and who has the stated goal of integrated employment in his or her individual program plan (IPP), to request tailored day along with his or her existing program in order to achieve that goal if certain criteria are met, including, as specified:
 - a) Determination of the type, amount, and provider of tailored day service allowed be made through the IPP process;
 - b) Inclusion in the IPP a description of how a consumer's individualized choices and needs will be met to achieve integrated competitive employment, and the type and amount of services and staffing needed to meet the consumer's specific choices and needs.
- 2) Allows for authorization in an IPP a certain maximum number of hours of tailored day services to be authorized in conjunction with existing services, as follows:
 - a) Up to 75 hours of service per calendar quarter for individuals currently receiving work activity program services, to be reduced from the individual's work activity program hours, as specified;
 - b) Up to five hours a month of tailored day services in addition to job coaching supports received on the job for individuals who are receiving group supported employment services.
- 3) Changes from Legislative intent to a requirement the inclusion of community-based vocational development services among habilitation services in order to increase effectiveness and opportunity to gain meaningful integrated competitive employment opportunities, as specified.
- 4) Deletes the requirement for the Department of Developmental Services (DDS) to conduct a four-year demonstration project, as specified, to determine whether community based vocational development services increase integrated competitive employment outcomes and reduce purchase-of-service costs for working age adults, and instead makes the following components of that pilot applicable statewide:
 - a) Defines "community-based vocational developmental services" as services provided to enhance community employment readiness, social skill development services necessary to obtain and maintain community employment, services to use internship,

apprenticeship, and volunteer opportunities to provide community-based development opportunities, services to access and participate in postsecondary education or career technical education, and building a network of community and employment opportunities, as specified;

- b) Requires, if community-based vocational development services are determined to be necessary, as specified, a plan be developed through the IPP process that may include: an inventory of potential employment interests; preferences for types of work environments or situations; identification of any training or education needed for the consumer's desired job; opportunities to explore jobs or self-employment as a means to desired employment outcomes; and identification of personal or family networks that may help a consumer achieve his or her desired employment outcomes;
 - c) Requires habilitation service providers and regional centers to semiannually review the plan to document progress, additional barriers, and other changes that impact the consumer's desired employment outcome;
 - d) Requires the hourly rate for community-based vocational development services be \$40 per hour for a maximum of 75 hours per calendar quarter for all services identified and provided, as specified, and requires DDS to secure federal Medicaid funding for services;
 - e) Allows hours of participation in community-based vocational development services be provided in lieu of hours of participation in other community-based day program services for up to two years, as specified, and prohibits consumer participation in community-based vocational development services from exceeding more than four years; and,
 - f) Makes implementation of these provisions contingent on federal financial participation and once any necessary federal approvals have been obtained.
- 5) 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 the development of an IPP for each regional center consumer, which specifies services to be provided to the consumer, based on his or her 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)

- 5) Allows a consumer to choose a tailored day service or vouchered community-based training service in lieu of any other regional center vended day program, look-alike day program, supported employment program, or work activity program. (WIC 4688.21)
- 6) Establishes an Employment First Policy in California to prioritize opportunities for integrated, competitive employment for individuals with developmental disabilities, regardless of the severity of their disabilities, as specified. (WIC 4869)
- 7) Defines habilitation services as activities purchased for regional center consumers, including services provided under the Work Activity and Supported Employment programs to prepare and maintain consumers at their highest level of vocation functioning or to prepare them for referral to vocational rehabilitation services. (WIC 4851)
- 8) Instructs DDS to conduct a four-year demonstration project to determine whether community-based vocational development services increase integrated competitive employment outcomes and reduce purchase of service costs for working age adults. (WIC 4850.3)
- 9) Establishes regulations regarding the Medicaid Home and Community-Based Services state plans. (42 Code of Federal Regulations 441.710)

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. 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 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.

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 helps the individual identify and work towards goals. The IPP process consists of a series of interactions and discussions among a team of people, including regional center staff, tasked with helping to develop a description in the plan, which is 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 determine the services and supports that will best support the individual’s ability to live in the community as independently as possible.

Employment First Policy: AB 1041 (Chesbro), Chapter 677, Statutes of 2013, adopted California’s first “Employment First Policy”, which is “the policy of the state that opportunities for competitive, integrated employment shall be given the highest priority for working age individuals with developmental disabilities, regardless of the severity of their disabilities.” With the adoption of AB 1041, California become the 12th state in the nation to adopt an Employment First Policy.

“Competitive, integrated employment” is defined as employment in a workplace where an individual with a developmental disability has the opportunity to work with people without disabilities, earns at least minimum wage, and receives the same pay, benefits, and opportunities for promotion as employees without disabilities. Competitive, integrated employment is intended to be the first option considered in the IPP process when a transition-age youth or working age adult undergoes the IPP process. However, while Employment First must be considered in the IPP process, an individual may choose to forego competitive, integrated employment opportunities if they choose to prioritize other goals.

Work services: Within the developmental services system is the “Work Services Program” that provides work and community integration opportunities through supported employment programs administered by the Department of Rehabilitation (DOR) and regional centers. Provided through either the Habilitation Services Program or the vocational rehabilitative program, supported employment services aim to assist individuals with severe disabilities find competitive work in the community when those individuals may need supportive services to learn and perform the work. Supported employment can include individual or group placements where a person might work in the community with on-the-job training provided by job coaches.

Tailored day services: Tailored day services, in keeping with the idea that a person’s IPP should be personalized to fit their goals and interests, are ultimately designed to maximize a consumer’s specific needs and choices. These services seek to increase a person’s integration and inclusion in the community, enable attendance of post-secondary education programs, develop and/or maintain employment opportunities, and allow for volunteer activities, among other things. Some tailored day services can also be customized to facilitate a consumer’s goals of self-employment and small business development. Currently, a consumer can choose tailored day

services in lieu of any other regional-center-vendored day program, look-alike day program, supported employment program, or work activity program. The provisions of this bill would allow a consumer to choose tailored day services alongside, rather than in lieu of, other employment and work programs.

Home and Community-Based Services waiver: Pursuant to Section 1915(c) of the federal Social Security Act, states may obtain Home and Community-Based Services (HCBS) waivers to enable states to more flexibly use Medicaid dollars to provide long-term care services in home and community-based settings instead of traditional institutional settings. HCBS waiver services can include case management, adult day health, habilitation, personal care, and home health aide, among other services. Waiver programs are federally required to: provide adequate and reasonable provider standards to meet the needs of the target population; demonstrate that providing waiver services won't cost more than providing services in an institutional setting; and, ensure that services follow an individualized and person-center plan of care.

In 2014, the federal Centers for Medicare and Medicaid Services (CMS) issued a new rule stating that individuals receiving services through HCBS waiver programs ought to be able to fully access the benefits of community living and receive services in the most integrated setting. The rule change also required that individuals with developmental disabilities be offered increased opportunities to participate in competitive, integrated employment. SB 577 (Pavley), Chapter 431, Statutes of 2014, instructed DDS, contingent upon federal financial participation, to conduct a four-year demonstration project to determine whether community-based vocational development services increase competitive, integrated employment outcomes and reduce purchase of service costs of working age adults. The pilot would have selected up to five volunteer regional centers to participate and was given a sunset date of January 1, 2023; however, to date, the pilot project has not yet been implemented due to the lack of federal financial participation. The provisions of this bill seek to repeal provisions of current law that make this project a pilot, and would instead make the components of the pilot project applicable statewide.

Need for this bill: The provisions of this bill seek to ensure individuals with developmental disabilities have greater flexibility when working towards achieving competitive, integrated employment. The bill would allow individuals with developmental disabilities for whom competitive, integrated employment is a goal to request tailored day services in conjunction with their existing supported employment program or work activity program.

According to the author, "People with disabilities who work in paid, community-integrated settings have a higher quality of life, better health outcomes, more access to social relationships and greater community participation. [This bill] would better prepare these individuals to increase their earning capacity by giving them access to better job preparedness training. Increased earning capacity doesn't just improve the quality of life for these individuals, it lessens dependence on government services."

PRIOR LEGISLATION:

AB 3074 (Frazier) of 2018 would have allowed a regional center consumer to requested tailored day services in addition to their existing day program, and would have required habilitation services to provide community-based vocational development services in order to increase integrated competitive employment outcomes and reduce purchase of service costs for working age adults. AB 3074 was held on the Assembly Appropriations Committee suspense file.

AB 1607 (Frazier) of 2017 would have allowed a regional center to request tailored day services in addition to their existing day program, and would have required habilitation services to provide community-based vocational development services in order to increase integrated competitive employment outcomes and reduce purchase of service costs for working age adults. AB 1607 was vetoed by the Governor.

SB 1427 (Pavley) of 2016 would have required DDS to establish a Work Transition Project to facilitate the delivery or integrated services and assist in state compliance with federal Home and Community-Based Services Waiver regulations. SB 1427 was held on the Assembly Appropriations Committee suspense file.

SB 577 (Pavley), Chapter 431, Statutes of 2014, required, contingent upon the receipt of federal funding, DDS to conduct a four-year demonstration project regarding the impacts of community-based vocational development services on employment outcomes for regional center consumers and on purchase-of-service costs for working-age adults.

AB 1041 (Chesbro), Chapter 677, Statutes of 2013, created a statewide Employment First Policy and set forth requirements related to the inclusion of employment opportunities and services in a regional center consumer's IPP.

REGISTERED SUPPORT / OPPOSITION:

Support

Arc of California/United Cerebral Palsy California Collaboration
California Disability Services Association
Futures Explored, Inc.

Opposition

None on file

Analysis Prepared by: Kelsy Castillo / HUM. S. / (916) 319-2089