Date of Hearing: April 18, 2023

ASSEMBLY COMMITTEE ON HUMAN SERVICES
Corey A. Jackson, Chair
AB 649 (Wilson) – As Introduced February 9, 2023

SUBJECT: Developmental services

SUMMARY: Permits 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. Specifically, **this bill**:

1) Removes the requirement that a consumer must provide 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 of the denial does not have merit before the regional center can purchase medical or dental services for a consumer three years of age or older.

2) Removes the requirement that regional centers must not purchase any service that would otherwise be available from Medi-Cal, Medicare, the Civilian Health and Medical Program for Uniform Services, In-Home Support Services, California Children's Services, private insurance, or a health care service plan when a consumer or a family meets the criteria of this coverage but chooses not to pursue that coverage.

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 Section [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 the Department of Developmental Services 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.*)

4) 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 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 4646)

5) Requires the IPP planning processes to include:

   a) A statement of the individual's goals and objectives, a schedule of the type and nature of services to be provided and other information and considerations, as specified;

b) Review and modification, as necessary, by the regional center's planning team no less frequently than every three years; and,

c) Statewide training and review of the IPP plan creation, as specified. (WIC 4646.5)

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 ages three 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. As of December 2022, DDS serves about 330,000 Lanterman-eligible individuals and another 2,900 children ages three and four who are provisionally eligible.

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. The 21 regional centers serve approximately 370,000 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.

Services provided to people with developmental disabilities are outlined in a person-centered IPP, which is developed by series of planning discussions and interactions with the IPP team—including, among other individuals, the consumer, their legally authorized representative, and one or more regional center representatives—and is based on the consumer's needs and choices. The team helps determines a "preferred future" by identifying a preferred place to live, favorite people with whom to socialize, and preferred types of daily activities, including preferred jobs.

The Lanterman Act requires that the IPP promote community integration and maximize opportunities for each consumer to develop relationships, be part of community life, increase control over his or her life, and acquire increasingly positive roles in the community. The IPP must give the highest preference to those services and supports that allow minors to live with their families and adults to live as independently as possible in the community

Cost-Effectiveness and Consumer Preferences. In 2009, California was facing a major budget deficit and as such California spent the 2009-10 budget year reviewing cost efficiency while trying to balance consumer protection and preferences. As a result, AB 9 X4 (Evans), Chapter 9, Statutes of 2009, was signed into law and made various statutory changes to maximize cost-efficiency. AB 9 X4 was a trailer bill that made various changes to developmental services that resulted in over $200 million in General Fund saving. In addition to other provisions, AB 9 X4 required DDS, in consultation with stakeholders, to develop an alternative service delivery model that provides an Individual Choice Budget for obtaining quality services and supports that provides choice and flexibility within a finite budget that, in the aggregate, reduces Regional Center purchase of service expenditures, and maximizes federal financial participation. Further, AB 9 X4 prohibited Regional Centers from purchasing medical or dental services for a client three years of age or older who is enrolled in Medi-Cal, has private insurance or is covered by a health care service plan, unless an appeal for requested services is being pursued by the client. The intent of AB 9 X4 was to utilize generic services prior to having the regional center purchase a service. The Assembly Floor Analysis stated that AB 9 X4 would result in $15.6 million General Fund savings in 2009-10.

The Legislative Analyst Office (LAO) released a report, *"2009-10 Budget Analysis Series on Health"*, which recommended, "The Legislature should also clarify how a consumer's choices and preferences in their services are to be balanced against the requirement that cost–effective services be provided to them. State law should specify that when two equally cost–effective and appropriate services are available, consumer preference should generally be the deciding factor, but that the more cost–effective services must be the ones provided if the services preferred by a consumer are a less cost–effective alternative."

Author's Statement: According to the Author, "When the Great Recession struck, California took major steps to address the sudden and massive short- and long-term revenue effects it caused. The regional center system, a community-based model of care for people with developmental disabilities, saw roughly a billion dollars in funding cuts. A number of the cuts were made at the expense of access to services, disproportionately falling on diverse and low-income communities with limited recourse to other options.

"To restore our service system's ability to most effectively meet changing needs in a changing state, requirements that families try to navigate bureaucratic obstacles in order to access critical services must be reversed. This bill provides a simple opportunity to do so by reversing an access-limiting change from 2009."

Need for this bill: As a result of budget cuts in 2009, individual choices were reduced for more cost-effectiveness including the ability to choose services outside of existing coverage. This bill will reverse this action from 12 years ago.

Equity Implications: There continues to be disparities in regional center services. For almost a decade, heightened attention has been given to disparities in regional center spending and service provision; data from DDS indicate that, statewide, per capita spending for services for a Latino consumer was $12,152 in 2021 compared to $28,143 for a white consumer. In 2015, statewide data showed that Latino consumers utilize services for which they are authorized at a lower rate (76.6%) than white consumers (82.7%).

The budget cuts from and service restrictions adopted in 2009 have been seen by some stakeholders as exacerbating disparities; these stakeholders argue that consumers from minority communities may be less likely to use out-of-home services and more likely to rely on respite services, and thus, disproportionately impacted by the reductions in services.

RELATED AND PRIOR LEGISLATION:

SB 82 (Committee on Budget and Fiscal Review), Chapter 23, Statutes of 2015, among other things, required each regional center to offer, and upon request provide, a written copy of the IPP to the consumer and, when appropriate, his or her parents, legal guardian or conservator, or authorized representative within 45 days of his, her, or their request in a threshold language, as defined, and further required the department and regional centers to annually collaborate to compile data on the number of instances in which an IPP was provided in this manner.

SB 555 (Correa), Chapter 685, Statutes of 2013, placed various requirements on regional centers to communicate and provide certain written materials in a consumer's and/or family's or other designated individual's native language, as specified.

AB 9 X4 (Evans), Chapter 9, Statutes of 2009, contained necessary changes to enact modifications to the 2009 Budget Act, including, but not limited to, suspending and limiting certain services for regional center consumers.

REGISTERED SUPPORT / OPPOSITION:

Support

Association of Regional Center Agencies (Sponsor)
California Dental Association
California Disability Services Association
Easterseals Northern California
Educate. Advocate.
Inland Regional Center
Los Angeles Coalition of Service Providers
North Bay Regional Center

Regional Center of the East Bay
The Arc and United Cerebral Palsy California Collaboration

Opposition

None on file

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