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2011 Fact Sheet # 1, Pub #F049.01

California's Budget Cuts to Developmental Disability Services & Programs Effective July 1, 2011

Annual Family Program Fee[1]

The State Legislature required the Department of Developmental Services (DDS) to reduce its budget by 174 million dollars for this fiscal year (2011-2012), in addition to the required 334 million dollar reduction effective July, 2009.[2] As a result, there are changes to the types and amounts of services that regional centers can purchase. This fact sheet describes the 2011 addition of the Annual Family Program Fee to the Lanterman Act. It also includes information about the exemptions to the fee, how the fee will be collected, and what to do if you do not agree with the amount of the fee charged.

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[1] The changes are part of the Budget Trailer Bill (TBL) AB104. You may find the law at http://www.leginfo.ca.gov/pub/11-12/bill/asm/ab_0101-0150/ab_104_bill_20110630_chaptered.html. Welfare and Institutions Code section 4782

[2] The new law requires DDS to obtain even greater savings if certain triggers are not met in the state budget throughout the year. Disability Rights California will discuss this on its website if the triggers are not met.

HOW THE LAW CHANGED

The Lanterman Act previously required that parents pay for out of home placements[3] and the services provided under the Family Cost Participation Program.[4] Now, families of minor regional center eligible children have to pay an annual fee under certain circumstances.[5]

A. Annual Family Program Fee

The Department of Developmental Services established a new program by which it will collect fees for children receiving regional center services. Any family whose adjusted gross income is at or above 400 percent of the federal poverty rate and that meets the following criteria will be assessed an annual fee:

1. The child is eligible for regional center services under the Lanterman Act or Early Intervention Services Act;[6]

2. The child is under 18 years of age;

3. The child lives with his/her parents;

4. The child or family receives services beyond needs assessment and service coordination;

5. The child does **not** receive Medi-Cal including Medi-Cal waiver services; and,

6. The child receives services beyond those for which a copay is being assessed under the Family Cost Participation Program.[7]

If the family's adjusted gross income is less than 400 percent of the federal poverty level, there will be **no fee**. If the family's adjusted gross income is between 400 and 800 percent of the federal poverty level, there will be a fee of $150 per family. [8] If the family's adjusted gross income is more than

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[3] Welfare and Institutions Code section 4782
[4] Welfare and Institutions Code section 4783
[5] Welfare and Institutions Code section 4785
[6] The fee will apply to children age 0-2 years only if approval is given to the state by the federal government.
[7] Welfare and Institutions Code section 4785(a); includes respite, day care, or camping costs.
[8] Welfare and Institutions Code section 4785(b)

800 percent of the federal poverty level, there will be a fee of $200 per family.

General considerations:

1. These fees are per family, regardless of the number of regional-center eligible children in the family.

2. Total adjusted gross family income means all income from both parents (even if living separately unless a court order states otherwise), including the community property portion of a stepparent's income.

3. If a noncustodial parent's income cannot be obtained, then it shall not be included.

B. Exemptions

A regional center may grant an exemption to the assessment of an annual family program fee if the parents demonstrate:

1. The exemption is necessary to maintain the child in the family home;

2. The existence of an extraordinary event that impacts the parents' ability to pay the fee or the parents' ability to meet the care and supervision needs of the child; or,

3. The existence of a catastrophic loss that temporarily limits the ability of the parents to pay and creates a direct economic impact on the family. For purposes of this subdivision, catastrophic losses may include, but are not limited to: natural disasters; accidents involving, or major injuries to, an immediate family member; and extraordinary medical expenses.[9]

[9] Welfare and Institutions Code section 4785(f)

C. Chart Showing Federal Poverty Rate

2011 HHS Poverty Guidelines[10]			
Persons in Family	**48 Contiguous States and D.C.**	**400%**	**800%**
1	$10,890	$43,560	$87,120
2	14,710	58,840	117,680
3	18,530	74,120	148,240
4	22,350	89,400	178,800
5	26,170	104,680	209,390
6	29,990	119,960	239,920
7	33,810	135,240	270,480
8	37,630	150,520	301,040
For each additional person, add	3,820		

D. Effective Date

This part of the law is effective at the time the TBL was enacted, which was July 1, 2011. However, the fee shall not be assessed until the next scheduled review or modification of your current Individual Program Plan (IPP) or at development of an initial IPP. These fees must be assessed by June 30, 2012, and annually thereafter.[11] This law will no longer be effective June 30, 2013, unless further legislation is enacted.

E. What Will Happen when the Regional Center Wants to Implement the Annual Family Program Fee?

At the IPP meeting, the regional center should give each qualifying family a form and an envelope to mail the Annual Family Program Fee to DDS. The Department of Developmental Services will report on the fees collected to each regional center quarterly.

[10] SOURCE**:** *Federal Register*, Vol. 76, No. 13, January 20, 2011, pp. 3637-3638 at http://aspe.hhs.gov/poverty/11poverty.shtml

[11] Welfare and Institutions Code section 4785(c)

F. What Will Happen if the Annual Family Program Fee Is Not Paid?

Non-payment of the Annual Family Program Fee **cannot** result in delayed or denied services for the child or family.[12] If fees are not paid, the regional center will send a letter requesting payment of the fees. If fees are still not paid, DDS can pursue collections.[13]

G. What to Do if You Do Not Agree with the Amount of the Annual Assessment

Disability Rights California believes that if you do not agree with the amount of your family's annual assessment, you are entitled to a regional center due process hearing even though the statute enacting the fee does not specifically say this. The Lanterman Act states that any applicant for or recipient of services, or authorized representative of the applicant or recipient, who is dissatisfied with any decision or action of the (regional center) which he or she believes to be illegal, discriminatory, or not in the recipient's or applicant's best interests, shall, upon filing a request within 30 days after notification of the decision or action complained of, be afforded an opportunity for a fair hearing.[14]

For more important information on how to appeal decisions by the regional center, read our fact sheet, Regional Center Due Process and Hearing Rights at http://www.disabilityrightsca.org/pubs/F02601.pdf.

[12] Welfare and Institutions Code section 4785(g)
[13] Welfare and Institutions Code section 4785 (d) and (e)
[14] Welfare and Institutions Code section 4710.5(a)

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Fact Sheet # 9, Pub #F057.01

California's Budget Cuts to Developmental Disability Services & Programs Effective July 1, 2011

Early Start – Transfer of the Prevention Program[1]

The State Legislature required the Department of Developmental Services (DDS) to reduce its budget by 174 million dollars for this fiscal year (2011-2012), in addition to the required 334 million dollar reduction effective July, 2009.[2] As a result, there are changes to the types and amounts of services that regional centers can purchase. This fact sheet describes the 2011 changes to the Early Start Program and Prevention Program, any exemptions to those changes, reference to any 2009 changes to Early Start services, and what will happen if the regional center wants to change your services.

Early Start serves infants and toddlers from birth to 3 years old with disabilities. Prior to July 1, 2009, the regional centers provided Early Start services to infants and toddlers who had a developmental delay, had an established risk for developmental delay, or had a developmental disability. The 2009 Trailer Bill changed who was eligible for Early Start and the

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[1] The changes are part of the Budget Trailer Bill (TBL) AB104. You may find the law at http://www.leginfo.ca.gov/pub/11-12/bill/asm/ab_0101-0150/ab_104_bill_20110630_chaptered.html. The changes affecting Early Start are found in Government Code sections 95004, 95014, 95020 and Welfare and Institutions Code section 4435.

[2] The new law requires DDS to obtain even greater savings if certain triggers are not met in the state budget throughout the year. Disability Rights California will discuss this on its website if the triggers are not met.

services provided. That law also created the prevention program for some infants and toddlers who do not meet Early Start eligibility.

THE LAW CHANGED IN 2009

For information on how the Early Start law changed in 2009, see Disability Rights California's 2009 Fact Sheet at http://www.disabilityrightsca.org/pubs/F01601.pdf.

The Prevention Program.

A child who is not eligible for Early Start services from the regional center is eligible under the prevention program for at-risk babies if their genetic, medical, developmental, or environmental history is predicative of a substantially greater risk for developmental disability than that for the general population. This program will provide intake, assessment, case management, and referral to generic agencies. From July 1, 2009, through June 30, 2012, the Prevention Program will be administered through the regional centers for those infants and toddlers being served under the Prevention Program prior to July 1, 2011.[3]

Only those babies identified as being at-risk who are in the prevention program prior to July 1, 2011, will continue in the program until they reach 36 months of age; or are made eligible for regional center services under the Early Start program or Lanterman Act; or June 30, 2012, whichever date is earlier.[4]

Effective July 1, 2011, no new children will be referred to the regional center administered program. New at risk infants and toddlers will participate in the Prevention Resource and Referral Program (PRRS) administered through the Family Resource Centers.[5]

[3] Welfare and Institutions Code section 4435
[4] Welfare and Institutions Code section 4435(d)
[5] Welfare and Institutions Code section 4435.1

FAMILY RESOURCE CENTERS NETWORK OF CALIFORNIA (FRCNCA) ADMINISTERING THE PRRS.

Effective July 1, 2011, when a regional center assessment determines that a baby is an at-risk baby, the regional center shall, with the consent of the parents, refer the family to the Family Resource Center (FRC). If the infant or toddler is eligible for the PRRS, the FRC will provide information and referral services.[6]

The Family Resource Centers will contract with the FRCNCA to provide outreach, information, and referral services to community services for children under 36 months of age who are otherwise not eligible for the Early Start Program or Lanterman Act services through the regional centers.[7] They will accept referrals from local regional centers and the medical community following an evaluation. If a family contacts the FRC for an initial assessment, the family will be referred to the local regional center for an intake and evaluation.

The Family Resource Centers will assist families in re-applying to the local regional center when it is suspected that the child may be eligible for services under Early Start or the Lanterman Act.[8]

Written Notice of Action Required to Be Given By the Regional Center

If you and your regional center do not agree on a change, the regional center must give you a notice 30 days before the change begins.[9] The notice must give you the following information:

- the action the regional center is taking;
- the basic facts about why the regional center is making its decision;
- the reason for the action;
- the effective date; and,
- the specific law, regulation or policy that supports the action.[10]

[6] Welfare and Institutions Code section 4435.1
[7] Welfare and Institutions Code section 4435.1(c)
[8] Welfare and Institutions Code section 4435.1(d)(2)
[9] Welfare and Institutions Code section 4710
[10] Welfare and Institutions Code section 4701. The information must also be in the language you understand.

Filing for Hearing

If you are already receiving the service and you disagree with the regional center's decision and want to continue to receive the service, you must request a fair hearing within 10 days of receiving the notice.[11] Otherwise, the request must be made within 30 days.[12] If exemptions are available and you think you meet an exemption, remember to additionally put "I meet an exemption" into your fair hearing request.

Mediation may be requested during a due process hearing if you decide that that it is appropriate. File your hearing or mediation request with:

Office of Administrative Hearings
Attention: Early Start Intervention Section
2349 Gateway Oaks Drive, Suite 200
Sacramento, CA 95833
Phone: (916) 263-0654;
Fax: (916) 376-6318

Your Rights During the Hearing Process

<u>You have a right to:</u>

- See your regional center records;
- Be present and give evidence by speaking or writing;
- Have your own family, friends, therapists or doctors be present and speak on your behalf;
- Have a lawyer or advocate present; and
- Have an interpreter if your primary language is other than English.

Prepare for Your Hearing

- Gather information that shows that you need the services that the regional center wants to change. Make sure the information you use is accurate and explains your needs in detail. Also, find people who are willing to go to your hearing and tell the judge why you need the services. Make sure these people know your needs.

[11] Welfare and Institutions Code section 4715
[12] Welfare and Institutions Code section 4710.5(a)

- At the hearing, you can argue that you have the right to have your needs met to fulfill your IFSP goals and objectives or explain why you meet an exception or exemption to the law.

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2011 Fact Sheet # 10, Pub #F058.01

California's Budget Cuts to Developmental Disability Services & Programs Effective July 1, 2011

Administrative Changes to the Lanterman Act[1]

The State Legislature required the Department of Developmental Services (DDS) to reduce its budget by 174 million dollars for this fiscal year (2011-2012), in addition to the required 334 million dollar reduction effective July, 2009.[2] As a result, there are changes to the types and amounts of services that regional centers can purchase. This fact sheet describes the 2011 changes that are administrative only and should not impact the services that you receive.

HOW THE LAW CHANGED

The following are administrative changes that should not impact the services you receive:

- Electronic Billing: The Lanterman Act previously required that vendors submit paper billing sheets in order to be paid for services

[1] The changes are part of the Budget Trailer Bill (TBL) AB104. You may find the law at http://www.leginfo.ca.gov/pub/11-12/bill/asm/ab_0101-0150/ab_104_bill_20110630_chaptered.html.

[2] The new law requires DDS to obtain even greater savings if certain triggers are not met in the state budget throughout the year. Disability Rights California will discuss this on its website if the triggers are not met.

provided. The law now requires that vendors utilize electronic billing forms.[3]

- Competency Evaluations: The law clarified the process for referring a child to a regional center for an eligibility intake through the juvenile court.[4]

- Reductions in Payment to Vendors: The law reduces the types of vendors who were previously exempted from the 4.25 percent reduction to vendors in 2009,[5] thereby increasing the types of vendors to whom the 4.25 percent reduction applies.

Electronic Billing

Providers of Early Start and Lanterman Act services traditionally submitted paper billing slips to the regional centers for payment. Effective July 1, 2011, regional centers are transitioning providers to an electronic billing system.[6] By July 1, 2012, all billings should be submitted electronically.

Exemptions to Electronic Billing

The following providers are exempted from the electronic billing requirement:

1. A provider whose services are paid for by vouchers; or,

2. A provider who demonstrates that submitting billings electronically presents a substantial hardship.[7]

The way that a provider submits its bills to regional centers should not have any impact on your services. Your services should continue as outlined in your Individualized Family Service Plan (IFSP) or Individual Program Plan (IPP).

Competency Evaluations

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[3] Government Code section 95020.5, Welfare and Institutions Code section 4641.5
[4] Welfare and Institutions Code sections 709 & 712
[5] See Section 24 of Budget Trailer Bill (TBL) AB104 at link above.
[6] Government Code section 95020.5 and Welfare and Institutions Code section 4641.5
[7] Government Code section 95020.5(a) (1)&(2) and Welfare and Institutions Code section 4641.5(a)(1) & (2)

During any juvenile court proceeding, the child or youth's legal counsel or the court may express concern that the child or youth has a developmental disability. If the child or youth is suspected of having a developmental disability, the court shall refer the child or youth to the regional center for an eligibility assessment under Welfare and Institutions Code section 4512.[8] The regional center shall then give the juvenile court a report indicating whether the child or youth was found eligible for services under the Lanterman Act.

The court will use this report to determine the child or youth's competency to participate in court proceedings.[9] If the child or youth is not competent, the court can order services to help them become competent.[10] This could include services provided by the regional center if the child or youth is found eligible for services.

Further, if a county has opted into the dispositional review and recommendation process, then the regional center report shall be used to determine if the minor qualifies for referral to a multidisciplinary team for planning.[11]

This section does not interfere with an individual's right to obtain their own private assessment regarding regional center eligibility or competency.[12] In fact, it may be necessary to obtain an independent assessment if the child or youth or family members disagree with the regional center assessment.

4.25 Percent Reduction in Payment to Vendors

In 2009, regional centers reduced payments for services and support under both the Early Intervention Services Act and the Lanterman Act. From February 1, 2009, to June 30, 2010, payments were reduced by 3 percent. From July 1, 2010, through June 30, 2012, the reduction was 4.25

[8] Welfare and Institutions Code section 709(b)
[9] Welfare and Institutions Code sections 709 & 712
[10] Welfare and Institutions Code section 709(c)
[11] Welfare and Institutions Code section 712 & 713
[12] Welfare and Institutions Code section 712(d)

percent[13]. However, certain vendors were exempted from these reductions. Exempted vendors included:

1. Supported Employment services with rates set by Welfare & Institutions Code section 4860;

2. Services with "usual and customary" rates established by Section 57210 of Title 17 of the California Code of Regulations; and,

3. Payments to offset reductions in Supplemental Security Income/State Supplementary Payment (SSI/SSP) benefits for consumers receiving supported and independent living services.

The new law limits the exemptions for services with "usual and customary" rates. This exemption no longer applies to:

1. Crisis and behavioral services provided by a nationally certified and/or state licensed professional consistent with each professional's scope of practice as set forth in the Business and Professions Code,

2. Services of group practices providing behavioral intervention,

3. Parent-coordinator home-base behavioral intervention for children with autism,

4. Individual or family training,

5. Registered nurse services,

6. Therapy services including physical, speech, occupational, recreational, and music therapy,

7. Audiology services,

8. Independent living specialist services,

9. Translator and interpreter services,

10. Mobility training, socialization training, community integration training services,

[13] See Section 24 of Budget Trailer Bill AB104 at link above.

11. Community activities support, program support, or parenting support services,

12. Personal assistance services,

13. Tutoring services,

14. Creative arts, and

15. Early start specialized therapeutic services.[14]

Although these vendors will be receiving less in payment from the regional centers, your services should not be impacted. Your services should remain exactly as written in your IFSP or IPP.

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[14] *Id.*