



California's protection and advocacy system
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2011 Fact Sheet # 4, Pub #F052.01

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

Supported Living Services¹

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.^{2,3} 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 use of Supported Living Services (SLS), any exemptions to those changes, and what will happen if the regional center wants to change your 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. The changes affecting SLS are found in Welfare and Institutions Code section 4689(o) & (p).

² The 2009 changes to SLS can be found at Disability Rights California's website: <http://www.disabilityrightsca.org/pubs/F02801.pdf>

³ 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 changes require:

1. For consumers receiving SLS who have or plan to have housemates who also receive SLS, the Individual Program Plan (IPP) team must consider whether any tasks performed by the service provider can be appropriately shared. Appropriately shared means that the tasks can be provided at the same time while still ensuring that each person's individual needs are met. The service provider must have the opportunity to give input to the IPP team about whether or not a task can be appropriately shared. Examples of possible shared tasks include meal preparation and cleanup, menu planning, laundry, shopping, general household tasks, or errands. The law requires that if tasks can be appropriately shared, the regional center must reduce the amount of money it spends on those tasks. The IPP team is supposed to make this determination the next time your IPP is developed, modified, or reviewed.
2. Independent assessments are now required for consumers currently receiving or initially entering SLS for whom SLS costs exceed 125 percent of the annual statewide average cost of SLS. As of July 1, 2011, 125 percent of the average annual cost of SLS is \$55,245. The purpose of the independent assessment, according to the law, is to assist the consumer's IPP team to determine whether the services provided or recommended are necessary and sufficient and that the most cost-effective methods of service are utilized. The law is very specific about the timing of the independent assessment, qualifications of the assessor, and how the independent assessment may be used. Important provisions include:
 - a. The independent assessment must be completed by an individual or entity other than the proposed or actual SLS provider. It is not intended to replace or duplicate the SLS provider's comprehensive assessment.
 - b. The independent assessor must be qualified. This means that the assessor must have experience with the provision of SLS, the IPP process, and the legal rights of people with developmental disabilities in California.

- c. Each regional center must publicly identify the entities and individuals it will use to conduct the independent assessments.
- d. Regional centers shall ensure there are sufficient independent assessors so that assessments can be provided when required without undue delay.
- e. For consumers receiving SLS, the independent assessment is supposed to be completed prior to the next scheduled IPP.
- f. For consumers entering SLS, the independent assessment must be completed within 30 days of the initial SLS recommendation. If it cannot be completed within 30 days, the individual may move into SLS with the amount of supports recommended by the service provider's comprehensive assessment. An additional IPP to consider the results of the independent assessment will be conducted when that assessment becomes available, if necessary.
- g. A regional center cannot deny SLS for a consumer based on the independent assessment.
- h. Independent assessments are not required for individuals who are moving from a developmental center to a supported living arrangement for the first 12 months following the placement.
- i. All final decisions about SLS must be made by the IPP team. When making decisions about SLS, the IPP team may consider the independent assessment along with the provider's comprehensive assessment, if available, and any other relevant information in determining whether there should be any adjustment to the amount or type of current or proposed supports.

What Will Happen If the Regional Center Wants to Change Your Services?

If your regional center wants to change your SLS either based on the shared tasks determination or based on the results of the independent

assessment, it must either hold an IPP meeting and reach agreement with you about the change or give you a written notice.⁴ The notice must be given 30 days before the change begins.⁵ 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.⁶

If you are already receiving the service and you disagree with the regional center's decision and want to continue to receive it, you must request a fair hearing within 10 days of receiving the notice.⁷ Otherwise, the request must be made within 30 days.⁸ If exemptions are available and you think you meet an exemption, remember to additionally put "I meet an exemption" into your fair hearing request.

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>.

⁴ Usually, decisions about the services you need must be decided by an IPP team. Welfare and Institutions Code section 4646.4(a)-(c). However, the law says if a regional center wants to reduce, end or change a service in your IPP without your consent, it has to give you a 30 day notice first. Welfare and Institutions Code section 4710

⁵ Welfare and Institutions Code section 4710

⁶ Welfare and Institutions Code section 4701. The information must also be in the language you understand.

⁷ Welfare and Institutions Code section 4715

⁸ Welfare and Institutions Code section 4710.5(a)



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2011 Fact Sheet # 8, Pub #F056.01

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

Mixed Payment Rates in Residential Facilities with Alternative Residential Model (ARM) Rates¹

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 payment rates of consumers who reside in ARM rate facilities, any exemptions to those changes, and what will happen if the regional center wants to change your 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. The changes affecting mixed payment rates in ARM rate facilities are found in Welfare and Institutions Code section 4681.7.

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

These provisions only apply to consumers who reside in a facility that receives payment based on a cost model known as the ARM rate (ARM rate facility). ARM facilities include small community living homes that are sometimes called group homes or referred to by the level of services they provide such as level 2 or level 4(i). The ARM rate is based on the specific service and support needs of the consumers who live in that facility. However, sometimes a consumer's service and support needs change and the consumer no longer requires the level of service and support for which his or her ARM rate facility is designed. For any consumer who requires a lower level of service and support than his or her facility's ARM rate designation, the law allows regional centers to negotiate a lower payment rate with the facility for that consumer. The law only allows the lower payment rate when the regional center; the consumer, or his or her representative; and the facility agree that the facility can safely provide the service and supports needed by the consumer. The law also says that the Individual Program Plan (IPP) team makes the determination as to whether a consumer's service and support needs have changed.

The purpose of the law is to allow consumers to remain in the home of their choice even when their service and support needs change. These provisions cannot be used to require consumers to move from their current home unless the consumer and his or her IPP team agree that a different living arrangement is appropriate.

This law does not impact consumers who may require a higher level of service and support than their facility's ARM rate designation. Existing law allows regional centers to purchase additional staffing that exceeds the level of staffing in the consumer's ARM rate facility when the consumer's IPP team determines that the additional staffing is necessary and consistent with the consumer's IPP.³ Existing law also allows the regional center to purchase emergency and crisis intervention services to allow the consumer to remain in the home of his or her choice.⁴

³ Welfare and Institutions Code section 4648(a)(9)(D)

⁴ Welfare and Institutions Code section 4648(a)(10)

What Will Happen If the Regional Center Wants to Change Your Services?

If your regional center will not allow you to stay in your current facility by adjusting its ARM rate, or if the regional center thinks you need a lower level of service and you disagree, the regional center must either hold an IPP meeting and reach agreement with you about the change or give you a written notice.⁵ The notice must be given 30 days before the change begins.⁶ 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.⁷

If you are already receiving the service and you disagree with the regional center's decision and want to continue to receive it, you must request a fair hearing within 10 days of receiving the notice.⁸ Otherwise, the request must be made within 30 days.⁹ If exemptions are available and you think you meet an exemption, remember to additionally put "I meet an exemption" into your fair hearing request.

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>.

⁵ Usually, decisions about the services you need must be decided by an IPP team. Welfare and Institutions Code section 4646.4(a)-(c). However, the law says if a regional center wants to reduce, end or change a service in your IPP without your consent, it has to give you a 30 day notice first. Welfare and Institutions Code section 4710

⁶ Welfare and Institutions Code section 4710

⁷ Welfare and Institutions Code section 4701. The information must also be in the language you understand.

⁸ Welfare and Institutions Code section 4715

⁹ Welfare and Institutions Code section 4710.5(a)