



California's Protection & Advocacy System  
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# Use of Generic and Private Insurance and Requirement to Provide Copies of Health Benefits Cards<sup>1</sup> - Fact Sheet

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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. As a result, there are changes to the types and amounts of services that regional centers can purchase.

This fact sheet describes the 2011 change that requires that copies of health benefits' cards be provided to regional centers, includes reference to the 2009 changes involving use of generic resources and private insurance, and what will happen if the regional center wants to change your services.

## **How the Law Changed in 2009**

The Lanterman Act currently requires regional centers to identify other sources of funding before buying services.<sup>2</sup> These are sometimes called "generic" services.

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<sup>1</sup> The changes are part of the Budget Trailer Bill (TBL) AB 104. 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](http://www.leginfo.ca.gov/pub/11-12/bill/asm/ab_0101-0150/ab_104_bill_20110630_chaptered.html). Changes affecting Generic Services and Private Insurance are found in Welfare and Institutions Code, section 4659(a). Changes requiring the provision of copies of health benefits cards are found in Government Code section 95020 and Welfare and Institutions Code sections 4643 & 4646.4.

<sup>2</sup> Welfare and Institutions Code section 4659(a)

In 2009, the law changed to make these requirements stronger. The changes say:

**1. Specific Generic Services You Must Apply for Before the Regional Center Can Pay<sup>3</sup>**

If you or your family are eligible for Medi-Cal, Medicare, the Civilian Health and Medical Program for Uniform Services (CHAMPUS-otherwise known as TRICARE), In-Home Support Services (IHSS), California Children's Services (CCS), private insurance, or a health care service plan, and you or your family choose not to apply for these services, then the regional center cannot purchase those services for you.

If you or your family does not meet the criteria for the generic services above, then the regional center can continue to purchase these types of services for you.

**2. Medical and Dental Services You Must Apply for (and Appeal the Denial if the Regional Center Thinks You Should) Before the Regional Center Can Pay<sup>4</sup>**

A regional center can only buy medical or dental services for you if you are over age three (3) and:

- You or your family show the regional center that Medi-Cal, private insurance, or a health care service plan has denied the medical or dental service; and,

The regional center decides that an appeal would have no merit. The regional centers may pay for medical or dental services:

- While you or your family are trying to get medical or dental service from another agency or private insurance and you have not yet been given a denial;

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<sup>3</sup> Welfare and Institutions Code section 4659(c)

<sup>4</sup> Welfare and Institutions Code section 4659(d)

- While you or your family are waiting for a final administrative decision and you already provided the regional center with information that you are appealing; or,
- Until Medi-Cal, private insurance, or a health care services plan begins to provide the services.

## **How the Law Changed in 2011**

Starting July 1, 2011, you must provide the regional center with copies of any health benefits cards under which you are eligible to receive health benefits, including private health insurance coverage, health service plans, Medi-Cal, Medicare, and TRICARE cards (for military families).<sup>5</sup> But if you, or where appropriate, your parents, legal guardians, or conservators, have no such benefits, the regional center cannot use that fact to negatively impact the services you may or may not receive from the regional center.<sup>6</sup>

For regional center services, the cards must be presented at assessments or development, scheduled review, or modification of the IPP. For Early Start services, the cards must be presented at the time of the intake or assessment but no later than the Individualized Family Service Plan (IFSP) meeting.

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

If your regional center wants to change your services by requiring you to use a generic service or your private insurance, it must either hold an IPP meeting and reach agreement with you about the change or give you a written notice.<sup>7</sup> The notice must be given 30 days before the change begins.<sup>8</sup> The notice must give you the following information:

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<sup>5</sup> Government Code section 95020 and Welfare and Institutions Code sections 4643 & 4646.4

<sup>6</sup> *Id.*

<sup>7</sup> 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

<sup>8</sup> Welfare and Institutions Code section 4710

- 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.<sup>9</sup>

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.<sup>10</sup> Otherwise, the request must be made within 30 days.<sup>11</sup> 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>.

*Disability Rights California is funded by a variety of sources, for a complete list of funders, go to <http://www.disabilityrightsca.org/Documents/ListofGrantsAndContracts.html>.*

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<sup>9</sup> Welfare and Institutions Code section 4701. The information must also be in the language you understand.

<sup>10</sup> Welfare and Institutions Code section 4715

<sup>11</sup> Welfare and Institutions Code section 4710.5(a)