

ADDENDUM TO PROPOSALS 30-32-EARLY START  
(NOTE: ITALICIZED AND UNDERSCORED TEXT IS PART OF  
TRAILER BILL AMENDMENTS FOR \$100 MILLION REDUCTION)

Section 4685 of the Welfare and Institutions Code is amended to read:

4685 (a) Consistent with state and federal law, the Legislature finds and declares that children with developmental disabilities most often have greater opportunities for educational and social growth when they live with their families. The Legislature further finds and declares that the cost of providing necessary services and supports which enable a child with developmental disabilities to live at home is typically equal to or lower than the cost of providing out-of-home placement. The Legislature places a high priority on providing opportunities for children with developmental disabilities to live with their families, when living at home is the preferred objective in the child's individual program plan.

(b) It is the intent of the Legislature that regional centers provide or secure family support services that do all of the following:

- (1) Respect and support the decisionmaking authority of the family.
- (2) Be flexible and creative in meeting the unique and individual needs of families as they evolve over time.
- (3) Recognize and build on family strengths, natural supports, and existing community resources.
- (4) Be designed to meet the cultural preferences, values, and lifestyles of families.
- (5) Focus on the entire family and promote the inclusion of children with disabilities in all aspects of school and community.

(c) In order to provide opportunities for children to live with their families, the following procedures shall be adopted:

- (1) The department and regional centers shall give a very high priority to the development and expansion of services and supports designed to assist families that are caring for their children at home, when that is the preferred objective in the individual program plan. This assistance may include, but is not limited to specialized medical and dental care, special training for parents, infant stimulation programs, respite for parents, homemaker services, camping, day care, short-term out-of-home care, child care, counseling, mental health services, behavior modification programs, special adaptive equipment such as wheelchairs, hospital beds, communication devices, and other necessary appliances and supplies, and advocacy to assist persons in securing income

maintenance, educational services, and other benefits to which they are entitled.

(2) When children with developmental disabilities live with their families, the individual program plan shall include a family plan component which describes those services and supports necessary to successfully maintain the child at home. Regional centers shall consider every possible way to assist families in maintaining their children at home, when living at home will be in the best interest of the child, before considering out-of-home placement alternatives. When the regional center first becomes aware that a family may consider an out-of-home placement, or is in need of additional specialized services to assist in caring for the child in the home, the regional center shall meet with the family to discuss the situation and the family's current needs, solicit from the family what supports would be necessary to maintain the child in the home, and utilize creative and innovative ways of meeting the family's needs and providing adequate supports to keep the family together, if possible.

(3)(A) To ensure that these services and supports are provided in the most cost-effective and beneficial manner, regional centers may utilize innovative service-delivery mechanisms, including, but not limited to, vouchers; alternative respite options such as foster families, vacant community facility beds, crisis child care facilities, group training for parents on behavioral intervention techniques in lieu of some or all of the in-home parent training component of the behavior intervention services, purchase of neighborhood preschools and needed qualified personnel in lieu of infant development programs, and alternative child care options such as supplemental support to generic child care facilities and parent child care cooperatives.

(B) Effective July 1, 2009, at the time of development, review, or modification of a child's individual program plan, the regional center shall:

(i) consider the use of group training for parents on behavior intervention techniques in lieu of some or all of the in-home parent training component of the behavior intervention services;

(ii) consider the purchase of neighborhood preschools and needed qualified personnel in lieu of infant development programs.

(4) If the parent of any child receiving services and supports from a regional center believes that the regional center is not offering adequate assistance to enable the family to keep the child at home, the parent may initiate a request for fair hearing as established in this division. A family shall not be required to start a placement process or to commit to placing a child in order to receive requested services.

(5) Nothing in this section shall be construed to encourage the continued residency of adult children in the home of their parents when that residency is not

in the best interests of the person.

(6) When purchasing or providing a voucher for day care services for parents who are caring for children at home, the regional center may pay only the cost of the day care service that exceeds the cost of providing day care services to a child without disabilities. The regional center may pay in excess of this amount when a family can demonstrate a financial need and when doing so will enable the child to remain in the family home.

(7) A regional center may purchase or provide a voucher for diapers for children three years of age or older. A regional center may purchase or provide vouchers for diapers under three years of age when a family can demonstrate a financial need and when doing so will enable the child to remain in the family home.

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PROPOSALS 40, 42, 56 AND 57-INDIVIDUAL CHOICE BUDGET

SECTION XX.

Section 4648.5 is added to the Welfare and Institutions Code to read:

(a) Notwithstanding any other provision of law or regulations to the contrary, effective July 1, 2009, regional centers' authority to purchase the following services shall be suspended pending implementation of the Individual Choice Budget and certification by the Director of Developmental Services that the Individual Choice Budget has been implemented and will result in state budget savings sufficient to offset the costs of providing the following services: camping services and associated travel expenses; social recreation activities, except for those activities vendored as community based day programs; educational services for children aged 3 through 17 years of age; and non-medical therapies, including but not limited to, specialized recreation, art, dance, and music.

(b) For regional center consumers receiving such services as part of their IPP or IFSP, the prohibition in subdivision (a) shall take effect on August 1, 2009.

(c) An exemption may be granted on an individual basis in extraordinary circumstances to permit purchase of a service identified in subdivision (a) when the regional center determines that the service is a primary or critical means for ameliorating the physical, cognitive, or psychosocial effects of the consumer's developmental disability, or the service is necessary to enable the consumer to remain in his or her home and no alternative service is available to meet the consumer's needs.

SECTION XX.

Section 4648.6 is added to the Welfare and Institutions Code to read:

The department, in consultation with stakeholders, shall develop an alternative service delivery model that provides an Individual Choice Budget for obtaining quality services and supports which provides choice and flexibility within a finite budget that in the aggregate reduces regional center purchase of service expenditures, reduces reliance on the state general fund and maximizes federal financial participation in the delivery of services. The individual budget will be determined using a fair, equitable, transparent standardized process.

PROPOSALS 1-3, 5 and 7-GENERAL STANDARDS

SECTION XX. Section 4648 of the Welfare and Institutions Code is amended to read:

In order to achieve the stated objectives of a consumer's individual program plan, the regional center shall conduct activities including, but not limited to, all of the following:

(a) Securing needed services and supports.

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(6) The regional center and the consumer, or where appropriate, his or her parents, legal guardian, conservator, or authorized representative, including those appointed pursuant to subdivision (d) of Section 4548 or subdivision (e) of Section 4705, shall, pursuant to the individual program plan, consider all of the following when selecting a provider of consumer services and supports:

(A) A provider's ability to deliver quality services or supports which can accomplish all or part of the consumer's individual program plan.

(B) A provider's success in achieving the objectives set forth in the individual program plan.

(C) Where appropriate, the existence of licensing, accreditation, or professional certification.

(D) The cost of providing services or supports of comparable quality by different providers, if available shall be reviewed, and the least costly available provider of comparable service, including the cost of transportation, who is able to accomplish all or part of the consumer's individual program plan, consistent with the particular needs of the consumer and family as identified in the individual program plan, shall be selected. In determining the least costly provider, the regional center shall consider the availability of federal financial participation. The consumer shall not be required to use the least costly provider if it will result in the consumer moving from an existing provider of services or supports to more restrictive or less integrated services or supports.

(E) The consumer's or, where appropriate, the parents, legal guardian, or conservator of a consumer's choice of providers.

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(15) Notwithstanding any other provision of law or regulation to the contrary, effective July 1, 2009, regional centers shall not purchase experimental treatments, therapeutic services, or devices that have not been clinically determined or scientifically proven to be effective or safe or for which risks and

complications are unknown. Experimental treatments or therapeutic services include experimental medical or nutritional therapy when the use of the product for that purpose is not general physician practice. For regional center consumers receiving such services as part of their IPP or IFSP on July 1, 2009, this prohibition shall take effect on August 1, 2009.

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(h) At least annually, regional centers shall provide the consumer, the parents, the legal guardian or conservator, or authorized representative a statement of services and supports the regional center purchased for the purpose of ensuring that they are delivered. The statement shall include the type, unit, month, and cost of services and supports purchased.

## SECTION XX.

Section 4659 of the Welfare and Institutions Code is amended to read:

(a) Except as otherwise provided in subdivision (b) or (c), the regional center shall identify and pursue all possible sources of funding for consumers receiving regional center services. These sources shall include, but not be limited to, both of the following:

(1) Governmental or other entities or programs required to provide or pay the cost of providing services, including Medi-Cal, Medicare, the Civilian Health and Medical Program for Uniform Services, school districts, and federal supplemental security income and the state supplementary program.

(2) Private entities, to the maximum extent they are liable for the cost of services, aid, insurance, or medical assistance to the consumer.

(b) Any revenues collected by a regional center pursuant to this section shall be applied against the cost of services prior to use of regional center funds for those services. This revenue shall not result in a reduction in the regional center's purchase of services budget, except as it relates to federal supplemental security income and the state supplementary program.

(c) Effective July 1, 2009, notwithstanding any other provision of law or regulation to the contrary, regional centers shall 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 or private insurance when a consumer or a family with such coverage chooses not to pursue such coverage. If, on July 1, 2009, a regional center is purchasing such service as part of a consumer's individual program plan, the prohibition shall take effect on October 1, 2009. When necessary, the consumer or family may receive assistance from the regional center, the Clients' Rights

Advocate funded by the department, or area boards on developmental disabilities in pursuing such appeals.

(d) Effective July 1, 2009, notwithstanding any other provision of law or regulation to the contrary, a regional center shall not purchase medical or dental services for a consumer aged three years of age and older without proof of denial from Medi-Cal or private insurance, and verification that the consumer or family is pursuing an administrative appeal of such denial unless the regional center determines the denial does not merit appeal. If, on July 1, 2009, a regional center is purchasing the service as part of a consumer's individual program plan, this provision shall take effect on August 1, 2009. Regional centers are authorized to pay for medical or dental services pending a final administrative decision on the administrative appeal and the commencement of services by Medi-Cal or private insurance. When necessary, the consumer or family may receive assistance from the regional center, the Clients' Rights Advocate funded by the department, or area boards on developmental disabilities in pursuing such appeals.

~~(e)~~ (e) This section shall not be construed to impose any additional liability on the parents of children with developmental disabilities, or to restrict eligibility for, or deny services to, any individual who qualifies for regional center services but is unable to pay.

~~(d)~~ (f) In order to best utilize generic resources, federally funded programs, and private insurance programs for individuals with developmental disabilities, the department and regional centers shall engage in the following activities:

(1) Within existing resources, the department shall provide training to regional centers, no less than once every two years, in the availability and requirements of generic, federally funded and private programs available to persons with developmental disabilities, including, but not limited to, eligibility requirements, the application process and covered services, and the appeal process.

(2) Regional centers shall disseminate information and training to all service coordinators regarding the availability and requirements of generic, federally funded and private insurance programs on the local level.

## Respite Proposals

Welfare & Institutions Code section 4686.5 is added to read:

4686.5 (a) Effective July 1, 2009, notwithstanding any other provision of law or regulation to the contrary:

(1) A regional center may only purchase respite services when the care and supervision needs of a consumer exceed that of an individual of the same age without developmental disabilities.

(2) A regional center shall not purchase more than 21 days of out-of-home respite services in a fiscal year nor 90 hours of in-home respite services in a quarter, for a consumer.

(3) Neither unused out-of-home respite days nor unused in-home respite hours may be utilized in subsequent fiscal years.

(4)(A) A regional center may grant an exemption to the requirements set forth in subdivision (a)(1) and (2) if it is demonstrated that:

(i) the intensity of the consumer's care and supervision needs are such that additional respite hours are necessary to maintain the consumer in the family home, or

(ii) there is an extraordinary event that impacts the family member's ability to meet the care and supervision needs of the consumer.

(B) For purposes of this section, "family member" means an individual who: (i) has a consumer residing with him or her; (ii) is responsible for the 24-hour care and supervision of the consumer; and (iii) is not a licensed or certified residential care facility or foster family home receiving funds from any public agency or regional center for the care and supervision provided.

Notwithstanding this provision, a relative who receives foster care funds shall not be precluded from receiving respite.

(5) A regional center shall not purchase day care services to replace or supplant respite services. For purposes of this section, "day care" is defined as regularly provided care, protection, and supervision of a consumer living in the home of his or her parents, for periods of less than 24 hours per day, while the parents are engaged in employment outside of the home and/or educational activities leading to employment.

(6) A regional center shall only consider in-home supportive services a generic resource when the approved in-home supportive services meets the respite need

as identified in the consumer's individual program plan or individualized family service plan.

(b) For consumers receiving respite services on July 1, 2009 as part of their IPP or IFSP, subdivision (a) shall take effect on August 1, 2009.

(c) This section shall remain in effect until implementation of the individual choice budget pursuant to section 4648.6 and certification by the Director of the Department of Developmental Services that the individual choice budget has been implemented and will result in State budget savings sufficient to offset the costs associated with the repeal of this section. This section shall be repealed on the date of certification.

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## Behavioral Services Proposals

Government Code section 95021 is added to read:

95021. Effective July 1, 2009, notwithstanding any other provision of law or regulation to the contrary,

(a) any vendor who provides applied behavioral analysis (ABA) services and/or intensive behavior intervention services, as defined in subdivision (d), shall:

(1) conduct a behavioral assessment of each infant or toddler to whom the vendor provides such services;

(2) design an intervention plan that shall include the service type, number of hours of in-home service, and parent participation needed to achieve the goals and objectives of the infant or toddler, as set forth in his or her Individualized Family Service Plan (IFSP). The intervention shall also set forth the frequency at which the progress of the infant or toddler shall be evaluated and reported.

(3) provide a copy of the intervention plan to the regional center for review and consideration by the planning team members.

(b) regional centers shall:

(1) only purchase applied behavioral analysis (ABA) services or intensive behavioral intervention services that reflect evidence-based practices, promote positive social behaviors, and ameliorate behaviors which interfere with learning and social interactions.

(2) only purchase ABA or intensive behavioral intervention services when the parent(s) of infants or toddlers receiving services participate in the intervention plan for the infant or toddler, given the critical nature of parent participation to the success of the intervention plan.

(3) not purchase either ABA or intensive behavioral intervention services for purposes of providing respite, day care, or school services.

(4) discontinue purchasing ABA or intensive behavior intervention services for an infant or toddler when his or her treatment goals and objectives, as described under subdivision (a), are achieved. ABA or intensive behavior intervention services shall not be discontinued until the goals and objectives are reviewed and updated as required in subdivision (b)(5) and

shall be discontinued only if those updated treatment goals and objectives do not require ABA or intensive behavior intervention services.

(5) For each infant or toddler, evaluate the vendor's intervention plan, and number of service hours for ABA or intensive behavior intervention no less than every six months, consistent with evidence-based practices. If necessary, the intervention plan's treatment goals and objectives shall be updated and revised.

(6) Not reimburse a parent for participating in a behavioral services treatment program.

(c) For infants and toddlers receiving ABA or behavioral intervention services on July 1, 2009 as part of their IFSP, subdivision (b) shall take effect on August 1, 2009.

(d) For purposes of this section,

(1) "applied behavior analysis" means the design, implementation, and evaluation of systematic instructional and environmental modifications to promote positive social behaviors and reduce or ameliorate behaviors which interfere with learning and social interaction.

(2) "intensive behavior intervention" means any form of applied behavior analysis that is comprehensive, designed to address all domains of functioning, and provided in multiple settings for no more than 40 hours per week, across all settings, depending on the individual's needs and progress. Interventions can be delivered in a 1-to-1 or small group format, as appropriate.

(3) "evidence-based practice" means a decision-making process which integrates the best available scientifically rigorous research, clinical expertise, and individual's characteristics. Evidence-based practice is an approach to treatment rather than a specific treatment. Evidence-based practice promotes the collection, interpretation, integration, and continuous evaluation of valid, important and applicable individual/family-reported, clinically-observed and research-supported evidence. The best available evidence, matched to infant or toddler circumstances and preferences, is applied to ensure the quality of clinical judgments and facilitates the most cost-effective care.

(4) "parent participation" means any of, but not limited to, the following: (A) completion of group instruction on the basics of behavior intervention, (B) active work with the family member according to the Intervention Plan, (C) collection of data on behavioral strategies and submission of that data to the provider for incorporation into progress reports, if needed, (D)

participation in any needed clinical meetings, (E) purchase of suggested behavior modification materials or community involvement if a reward system is used.

Welfare & Institutions Code section 4686.2 is added to read:

4686.2. Effective July 1, 2009, notwithstanding any other provision of law or regulation to the contrary,

(a) any vendor who provides applied behavioral analysis (ABA) services and/or intensive behavior intervention services, as defined in subdivision (d), shall:

(1) conduct a behavioral assessment of each consumer to whom the vendor provides such services;

(2) design an intervention plan that shall include the service type, number of hours of in-home service, and parent participation needed to achieve the consumer's goals and objectives, as set forth in the consumer's Individual Program Plan (IPP) or Individualized Family Service Plan (IFSP). The intervention shall also set forth the frequency at which the consumer's progress shall be evaluated and reported.

(3) provide a copy of the intervention plan to the regional center for review and consideration by the planning team members.

(b) regional centers shall:

(1) only purchase applied behavioral analysis (ABA) services or intensive behavioral intervention services that reflect evidence-based practices, promote positive social behaviors, and ameliorate behaviors which interfere with learning and social interactions.

(2) only purchase ABA or intensive behavioral intervention services when the parent(s) of minor consumers receiving services participate in the intervention plan for the consumers, given the critical nature of parent participation to the success of the intervention plan.

(3) not purchase either ABA or intensive behavioral intervention services for purposes of providing respite, day care, or school services.

(4) discontinue purchasing ABA or intensive behavior intervention services for a consumer when the consumer's treatment goals and objectives, as described under subdivision (a), are achieved. ABA or intensive behavior intervention services shall not be discontinued until the goals and objectives are reviewed and updated as required in subdivision (b)(5) and

shall be discontinued only if those updated treatment goals and objectives do not require ABA or intensive behavior intervention services.

(5) For each consumer, evaluate the vendor's intervention plan, and number of service hours for ABA or intensive behavior intervention no less than every six months, consistent with evidence-based practices. If necessary, the intervention plan's treatment goals and objectives shall be updated and revised.

(6) Not reimburse a parent for participating in a behavioral services treatment program.

(c) For consumers receiving ABA or behavioral intervention services on July 1, 2009 as part of their IPP or IFSP, subdivision (b) shall take effect on August 1, 2009.

(d) For purposes of this section,

(1) "applied behavior analysis" means the design, implementation, and evaluation of systematic instructional and environmental modifications to promote positive social behaviors and reduce or ameliorate behaviors which interfere with learning and social interaction.

(2) "intensive behavior intervention" means any form of applied behavior analysis that is comprehensive, designed to address all domains of functioning, and provided in multiple settings for no more than 40 hours per week, across all settings, depending on the individual's needs and progress. Interventions can be delivered in a 1-to-1 or small group format, as appropriate.

(3) "evidence-based practice" means a decision-making process which integrates the best available scientifically rigorous research, clinical expertise, and individual's characteristics. Evidence-based practice is an approach to treatment rather than a specific treatment. Evidence-based practice promotes the collection, interpretation, integration, and continuous evaluation of valid, important and applicable individual/family-reported, clinically-observed and research-supported evidence. The best available evidence, matched to consumer circumstances and preferences, is applied to ensure the quality of clinical judgments and facilitates the most cost-effective care.

(4) "parent participation" means any of, but not limited to, the following: (A) completion of group instruction on the basics of behavior intervention, (B) active work with the family member according to the Intervention Plan, (C) collection of data on behavioral strategies and submission of that data to the provider for incorporation into progress reports, if needed, (D)

participation in any needed clinical meetings, (E) purchase of suggested behavior modification materials or community involvement if a reward system is used.

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PROPOSAL 34-RESIDENTIAL

SECTION XX.

Section 4648 of the Welfare and Institutions Code is amended to read:

In order to achieve the stated objectives of a consumer's individual program plan, the regional center shall conduct activities including, but not limited to, all of the following:

(a) Securing needed services and supports.

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(3) . . . (E) Effective July 1, 2009, notwithstanding any other provision of law or regulation to the contrary, a regional center shall not newly vendor a Department of Social Services licensed 24 hour residential care facility with a licensed capacity of 16 or more beds unless the facility qualifies for receipt of federal funds under the Medicaid program.

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(9) . . . (B) Effective July 1, 2012, notwithstanding any other provision of law or regulation to the contrary, a regional center shall not purchase residential services from a Department of Social Services licensed 24 hour residential care facility with a licensed capacity of 16 or more beds. This prohibition on regional center purchase of residential services shall not apply to:

(i) A residential facility with a licensed capacity of 16 or more beds that has been approved to participate in the department's Home and Community Based Services Waiver or another existing waiver program or certified to participate in the Medi-Cal program; or

(ii) A residential facility service provider who has a written agreement and specific plan prior to July 1, 2012 with the vendoring regional center to downsize the existing facility by transitioning their residential services to living arrangements of 15 beds or less or restructure the large facility to meet federal Medicaid eligibility requirements on or before June 30 2013.

## PROPOSAL FOR SECTION 1915(i) STATE PLAN OPTION

### SECTION XX.

Section 4688.3 is added to the Welfare and Institutions Code to read:

(a) The Department of Health Care Services and the Department of Developmental Services shall jointly seek a Centers for Medicare and Medicaid Services' approved 1915(i) state plan amendment to expand federal financial participation for services to persons with developmental disabilities provided by regional centers pursuant to Division 4.5 (commencing with section 4500).

(b) Services provided pursuant to this section shall be rendered under the administrative direction of the Department of Developmental Services. The department may issue program directives to regional centers for implementing the approved state plan amendment.

(c) If the Centers for Medicare and Medicaid Services approve the state plan amendment pursuant to 1915 (i) of the Social Security Act, the director of Health Care Services shall execute a declaration stating that this approval has been granted. The director shall retain the declaration and this section shall become operative on the date that the director executes a declaration pursuant to this subdivision.

(d) The Department of Developmental Services may adopt regulations to implement this section and any sections in Division 4.5 necessary to implement the terms of the 1915(i) state plan amendment. The adoption, amendment, repeal, or readoption of a regulation authorized by this section is deemed to be necessary for the immediate preservation of the public peace, health and safety, or general welfare, for purposes of Sections 11346.1 and 11349.9 of the Government Code, and the department is hereby exempted from the requirement. For purposes of subdivision (e) of Section 11346.1 of the Government Code, the 120-day period, as applicable to the effective period of an emergency regulatory action and submission of specified materials to the Office of Administrative Law is hereby extended to 180 days.

(e) The Department of Developmental Services shall adopt regulations to implement the terms of the 1915(i) state plan amendment through the regular rulemaking process pursuant to Sections 11346 and 11349.1 of the Government Code within 18 months of the adoption of emergency regulations pursuant to subdivision (d).

(f) The Department of Developmental Services shall consult with stakeholders as defined in Section 4512, subdivision (k).

(g) The Department of Health Care Services shall post a copy of, or a link to, the approved state plan amendment and any Department of Developmental Services

regulations and/or program directives issued pursuant to this Section on its website.