

**Senator Richard Pan, M.D., Chair**  
**Senator William W. Monning**  
**Senator Jeff Stone**



**Wednesday, May 17, 2017**  
**10 a.m. or upon adjournment of session**  
**State Capitol - Room 4203**

Part A

Consultant: Peggy Collins

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**VOTE ONLY ISSUE**

**ISSUE 1: Information Security and Privacy Support-Budget Change Proposal (BCP)**

**Proposal:** The budget proposes \$398,000 (\$317,000 General Fund) and three positions to monitor, train, advise, and support required security activities at headquarters, the developmental centers, and the regional centers for compliance with state and federal information security and privacy laws. Specifically, the department requests to hire three systems software specialists. Two specialists will assist and support developmental centers and regional center security efforts, and conduct activities in compliance with the State Administrative Manual, the State Information Management Manual, and federal requirements. The third specialist will be dedicated full-time to threat monitoring and risk reduction, and provide expertise to staff in utilizing complex security monitoring tools, including vulnerability scanning, centralized logging, anti-virus monitoring, patch management and firewall configuration management, and security audit log monitoring.

**Staff Comments and Recommendation – Approve as budgeted:** This issue was discussed on March 16<sup>th</sup> and no issues have been raised.

**ISSUES TO BE DISCUSSED**

**ISSUE 2: Developmental Center – May Revision Adjustments**

**Background:** The department directly provides services to persons with developmental disabilities in three developmental centers and one state-leased and operated community facility (Canyon Springs). Sonoma Developmental Center is scheduled to close by the end of 2018; and Fairview and Porterville developmental centers (not including the Secure Treatment Program (STP) at Porterville) are schedule to close by the end of 2021. The May Revision proposes total funds for current year support of the developmental centers and Canyon Springs of \$540 million (\$376 million General Fund), an increase of \$10.1 million over the January budget. For the budget year, the May Revision proposes \$466 million (\$348 million General Fund), an increase of \$16.2 million over the January budget.

The following chart shows population estimates for June 30<sup>th</sup> in the current year and fiscal year and compares expenditures across each fiscal year based on January and May estimates.

Developmental Centers 2016-17 and 2017-18 Comparison Chart (Dollars in Thousands)						
	2016-17 January	2016-17 May	Change	2017-18 January	2017-18 May	Change
Population (ending pop 6/30)	760	793	33	490	495	5
Proposed Expenditures	\$529,869 (368,523 GF)	\$539,948 (\$376,132 GF)	\$10,079 (\$7,609 GF)	\$449,796 (\$329,985 GF)	\$465,983 (\$348,179 GF)	\$16,187 (\$18,194 GF)

**Current Year Adjustments:** The May Revision proposes an increase of \$10.1 million (\$7.6 million General Fund) for the new memorandum of understanding (MOU) with various bargaining units. Funding for this is reflected in Item 9800.

**Budget Year Adjustments:** The May Revision proposes a net increase of \$16.2 million (\$18.2 million General Fund) to reflect the following adjustments:

- \$10.5 million increase (\$7.8 million General Fund) for the new MOU with various bargaining units. Funding for this is reflected in Item 9800.
- \$5.7 million (\$3.0 million General Fund) increase for population-driven adjustments. Specifically, the beginning year population in developmental centers is now estimated to be 793 – 33 residents more than anticipated in the January budget. This results in the need to keep open one additional intermediate care facility (ICF) unit and 50.5 positions, and associated operating expenses and equipment (OE&E), for nine months.
- \$7.4 million (\$5.7 million General Fund) for corrections to the new zero-based budgeting approach that the department adopted for the January budget. Through the May Revision development process, the department identified a total of 85.8 program support positions across headquarters, three developmental centers, and the Canyon Springs facility, that are currently filled but not included in the January budget.
- A net reduction of \$1 million (net decrease of \$0.2 million General Fund) for various technical adjustments and a proportional redistribution of \$3.4 million from the general treatment area to the secure treatment program at Porterville Developmental Center, based on the number of staff working at each.
- For the Community State Staff Program (CSSP), transfer of \$8.3 million in reimbursement authority and the administrative transfer of participating state employees, from the developmental center budget to headquarters. CSSP enables qualified developmental center staff familiar with the needs of developmental center residents to continue supporting them in the community by working for regional center-contracted vendors. There are currently approximately 108 state employees participating in this program. Four positions were transferred from the developmental centers to headquarters in the 2016 budget act in order to centralize contract administration, accounting functions, and program oversight. This action will transfer the remaining program components to headquarters as the program will be ongoing following the closure of the developmental centers.
- \$1.9 million General Fund and 14.5 positions to operate two statewide mobile acute crisis unit teams as a part of the Governor’s overall “safety net” proposal. This will be discussed later in the agenda.

Questions for DDS:

- Briefly present the May Revision proposal for developmental centers.
- What factors led to the department not meeting its target for placements into the community in the current year? What actions has the department taken, or will take, to address this issue? Does the department anticipate it will still meet its closure date targets for the developmental centers?

- Please describe how the first year implementation of the new zero-based budgeting approach on a developmental center-specific basis resulted in the budgeting errors that are proposed for correction in the May Revision.

**Staff Comments and Recommendation - Approve May Revision, as adjusted by other subcommittee actions.**

**ISSUE 3: Regional Centers – May Revision - Current Year**

**Proposal:** For the current year, the Governor’s May Revision proposes an updated regional center budget of \$6.1 billion (\$3.6 billion General Fund), a net decrease of \$12.3 million (\$22.5 million General Fund increase) from the Governor’s January budget. The May Revision decrease reflects a projected \$16.4 million reduction (\$21 million General Fund increase) in the purchase of services (POS), and an increase of \$0.7 million (\$1.5 million General Fund decrease) in regional center operations. The incremental fund source adjustments reflect an estimated decrease in expenditures eligible for reimbursements and the loss of behavioral health treatment (BHT) – fee-for-service (FFS) reimbursement from the Department of Health Care Services (DHCS), which caused an increase in General Fund expenditures (discussed later in the agenda). The following tables reflect the updated current and budget year projected costs by fund sources and caseload changes. There is a net increase of 152 consumers in the updated 2016-17 caseload, comprised of 72 Early Start consumers and 80 active consumers, for a total estimated population of 303,599 in the current year.

2016-17 Costs and Fund Sources ( <i>Values in thousands</i> )			
Governor's Budget		Updated 2016-17	Request
<b>Total Costs</b>	<b>\$6,064,913</b>	<b>\$6,052,632</b>	<b>-\$12,281</b>
Operations	730,529	731,302	773
Purchase of Services	5,313,272	5,300,218	-13,054
Early Start -Other Agency Costs	19,109	19,109	0
Early Start Family Resource Services	2,003	2,003	0
<b>Fund Sources</b>	<b>\$6,064,913</b>	<b>\$6,052,632</b>	<b>-\$12,281</b>
General Fund (GF)	3,558,448	3,580,955	22,507
<i>GF Match</i>	<i>2,193,091</i>	<i>2,189,400</i>	<i>(3,691)</i>
<i>GF Other</i>	<i>1,365,357</i>	<i>1,391,555</i>	<i>26,198</i>
Reimbursements	2,433,943	2,415,269	-18,674
Program Development Fund	2,537	2,537	0
Developmental Disabilities Services Account	150	150	0
Mental Health Services Fund	740	740	0
Federal Funds	53,707	52,981	-726
BHT -FFS Reimbursement from DHCS	15,388	0	-15,388

Source: Regional Center Local Assistance Estimate, 2017 May Revision, Department of Developmental Services

**Current Year Adjustments:** The May Revision reflects a net increase of \$3.4 million (\$3.0 million General Fund decrease) from the January budget and proposes the following adjustments:

- \$31.7 million decrease (\$19.3 million General Fund decrease) due to updated actual expenditures multiplied by the growth rate of each POS budget category related to the minimum wage increase on January 1, 2016.
- \$29.8 million increase (\$14.2 million General Fund increase) reflecting a decrease in BHT transition savings (discussed later in this agenda).
- \$5.2 million decrease (\$3 million General Fund decrease) due to actual expenditures coming in lower than projected for the Alternative Residential Model (ARM) four-bed rate adjustment.
- \$10.5 million net increase (\$6.2 million General Fund increase) reflecting updated expenditure estimates for wage and administrative cost increases for regional centers and community providers made pursuant to AB X2 1 (Thurmond), Chapter 3, Statutes of 2016.
- Developmental Center Closure -Net zero \$0 difference (\$4.9 million General Fund increase). Total expenditures remain unchanged, but General Fund increased due to a shift in funding from reimbursements to General Fund resulting from less expenditures eligible for reimbursement.

Questions for DDS:

- Please briefly present the May Revision proposal for the Regional Center Current Year budget.

**Staff Comments and Recommendation – Approve May Revision, as adjusted by other subcommittee actions.**

**ISSUE 4: Regional Centers –May Revision – Budget Year**

The 2017 May Revision proposes \$6.4 billion (\$3.8 billion General Fund); a net decrease of \$35.7 million (\$42.7 million General Fund decrease) from the January budget. The net decrease reflects a \$39.7 million decrease (\$36.8 million General Fund decrease) in POS and a \$3.7 million increase (\$5.9 million General Fund decrease) in regional center operations. The 2017-18 budget reflects a \$335.5 million increase (\$215.3 million General Fund) over updated 2016-17 expenditures. There is a net increase of 554 consumers over the January budget, comprised of 481 Early Start consumers and 73 Active consumers, for a total estimated population of 317,837 in the budget year.

<b>Costs and Fund Sources (Values in thousands)</b>			
<b>Governor's Budget</b>		<b>2017-18</b>	<b>Request</b>
<b>Total Costs</b>	<b>\$6,423,741</b>	<b>\$6,388,088</b>	<b>-\$35,653</b>
Operations	753,784	757,488	3,704
Purchase of Services	5,648,845	5,609,488	-39,357
Early Start -Other Agency Costs	19,109	19,109	0
Early Start Family Resource Services	2,003	2,003	0
<b>Fund Sources</b>	<b>\$6,423,741</b>	<b>\$6,388,088</b>	<b>-\$35,653</b>
General Fund (GF)	3,838,894	3,796,228	-42,666
<i>GF Match</i>	<i>2,274,753</i>	<i>2,287,123</i>	<i>12,370</i>

<i>GF Other</i>	<i>1,564,141</i>	<i>1,509,105</i>	<i>-55,036</i>
Reimbursements	2,511,945	2,535,175	23,230
Program Development Fund	2,537	2,537	0
Developmental Disabilities Services Account	150	150	0
Mental Health Services Fund	740	740	0
Federal Funds	54,087	53,258	-829
BHT -FFS Reimbursement from DHCS	15,388	0	-15,388

Source: Department of Developmental Services, May Revision Estimate

**Budget Year Adjustments:** The May Revision reflects a net decrease of \$35.7 million (\$42.7 million General Fund decrease) from the January budget and proposes the following adjustments:

- \$1.3 million (\$1.0 million General Fund) in 2017-18 (Operations) to fund 0.5 psychologists per regional center to assess children with an Autism Spectrum Disorder (ASD) diagnosis and provide medical referrals for BHT services (discussed later in this agenda).
- \$33.6 million decrease (\$20.6 million General Fund decrease) in 2017-18 reflecting updated actual expenditures multiplied by the growth rate of each POS budget category related to the minimum wage increase effective January 1, 2016.
- \$29.8 million increase (\$14.2 million General Fund increase) reflecting a decrease in BHT transition savings (discussed later in this agenda).
- \$3.3 million General Fund reduction based on the BHT transition schedule for consumers without an autism spectrum disorder (ASD) diagnosis, starting January 1, 2018 (discussed later in this agenda).
- \$1.8 million net increase (\$1.1 million General Fund) reflecting updated expenditure estimates for wage and administrative cost increases for regional centers and community providers made pursuant to AB X2 1 (Thurmond), Chapter 3, Statutes of 2016.
- \$5.6 million General Fund, one-time, to develop components of the safety net plan (discussed later in this agenda).
- Developmental Center Closure -Net zero \$0 difference (\$6.5 million General Fund increase). Total expenditures remain unchanged, but General Fund increased due to a shift in funding from reimbursements to GF resulting from less expenditures eligible for reimbursement.

Questions for DDS:

- Please briefly present the May Revision proposal for the Regional Center Current Year budget.

**Staff Comments and Recommendation – Approve May Revision, as adjusted by other subcommittee actions.**

## **ISSUE 5: Behavioral Health Treatment (BHT) Services – May Revision Proposal and Adjustments**

The May Revision proposes multiple changes related to the provision of BHT services to children served by regional centers. These are outlined below and chart on page 22.

**Behavioral Health Treatment (BHT) Services for Children without a Diagnosis of Autism Spectrum Disorder.** The department proposes \$14.8 million General Fund in 2016-17 and \$16.5 million General Fund in 2017-18 to cover the loss of federal financial participation (FFP) for BHT services provided to children without an autism diagnosis.

In January 2016, the Department of Health Care Services (DHCS) obtained approval from the Centers for Medicare & Medicaid Services (CMS) to include BHT as a Medi-Cal benefit for children with a diagnosis of autism spectrum disorder (ASD). Between February and October 2016, children with an ASD diagnosis transitioned to DHCS for BHT services. Children without an ASD diagnosis did not transition, and it was expected their BHT services would remain eligible for FFP under the federal 1915(i) State Plan Amendment (SPA) or the Home and Community-Based Services (HCBS) Waiver. However, CMS determined Medi-Cal must cover medically necessary BHT services for all children, regardless of their diagnoses. Beginning October 1, 2016, FFP is not available under either the 1915(i) SPA or HCBS Waiver for BHT services provided to children without an ASD diagnosis.

As a result of this CMS determination, the department proposes to coordinate with DHCS to transition to Medi-Cal Managed Care in 2017-18, an estimated 1,720 children whose BHT services will be determined as medically necessary by Medi-Cal Managed Care plans. In contrast, the General Fund will fund the costs of BHT services provided to an estimated 4,000 children whose individual program plans indicate a need for these services but are estimated to not meet the Medi-Cal medical necessity criteria.

In addition to the children without an ASD diagnosis enrolled in Medi-Cal Managed Care plans, the department estimates that 280 children are in fee-for-service Medi-Cal. These children will continue to receive services through the regional centers, and DHCS will fully reimburse the department for the related expenditures.

**Backfill for Unrealized Reimbursements for Children who Transitioned to DHCS and Received BHT Services on a Fee-for-Service Basis.** The department requests \$7.1 million General Fund in 2016-17 to backfill unrealized reimbursements for children who transitioned to DHCS and those who received BHT services on a fee-for-service basis.

In 2016, approximately 12,000 regional center consumers under the age of 21 with an ASD diagnosis transitioned to DHCS and Medi-Cal Managed Care for BHT services. An additional 1,683 fee-for-service consumers transitioned to DHCS, but continued to receive BHT services through the regional centers with the expectation that DHCS would reimburse the department for the expenditures.

However, DHCS has been unable to reimburse the department for approximately \$7.1 million in BHT expenditures because a recommendation from a physician or psychologist is required for those services to be eligible for FFP under Medi-Cal. This provision was not previously required for the department to claim FFP for BHT services under the 1915i SPA or HCS Waiver. Therefore, funding is required to

support additional regional center workload.

**Psychological Evaluations for BHT Fee-for-Service Consumers.** The department requests \$1.3 million (\$1.0 million General Fund) in 2017-18 to fund 0.5 psychologists per regional center to assess children with an ASD diagnosis and provide medical referrals for BHT services so these services will be eligible for FFP under Medi-Cal, thus enabling DHCS to reimburse the department for expenditures.

**Reimbursements for BHT Services Provided to Fee-for-Service Consumers.** In 2017-18, the department proposes \$7.4 million in reimbursement authority from DHCS to cover the costs of BHT services provided to children on a fee-for-service basis. This includes expenditures for approximately 1,700 children with an ASD diagnosis, as well as 280 children who do not have an ASD diagnosis but for which BHT services are medically necessary.

Question for DDS:

- Please present your proposal.
- Generally, how has this process been going for families?

**Staff Comments and Recommendation – Approve May Revision.**

#### **ISSUE 6: Headquarters Research Unit – Open Issue**

**Background.** At its March 16<sup>th</sup> hearing, the subcommittee heard testimony from the department regarding its newly-established Fiscal and Program Research Section, funded in the 2016-17 budget act with \$923,000 (\$630,000 General Fund) for seven new permanent positions and the redirection of one position, for a total of eight positions. The department testified how they are setting short and long-term goals for this section.

Budget trailer bill language adopted in AB 1606 (Committee on the Budget), Chapter 26, Statutes of 2106, require that these resources be used, in part, to *“annually assess disparities data reported by regional centers, caseload ratio requirements by regional centers, and performance dashboard data collected pursuant to Section 4572 of the Welfare and Institutions Code, as it becomes available.”*

**Legislative Analyst’s Office (LAO).** The LAO recommends the Legislature set more specific research goals to encourage data-driven decision-making.

**Staff Comments and Recommendation – Adopt placeholder trailer bill language:** The Fiscal and Program Research Section is relatively new and still staffing up. While the Legislature has set some priorities relative to the work of this section, it is also important that the section have the agility to respond to emerging issues. The subcommittee may wish to consider adoption of the following placeholder supplemental report language:

*The department shall annually report during the budget subcommittee budget hearing process on the status of previously undertaken and/or ongoing research projects; their research priorities in the*



*upcoming fiscal year; and how the research is applied in informing departmental decision-making and service provision.*

## **ISSUE 7: Disparities – Open Issue**

**Background:** \$11 million (General Fund) was provided in AB 2X 1 (Thurmond), Chapter 3, Statutes of 2016, to address this issue. On March 14, 2017, the issue of funding disparities in the regional center system was discussed at length by the Senate Committee on Human Services; and again at the March 16<sup>th</sup> hearing of this subcommittee.

**Disparities Funding.** In October, 2016, the department approved proposed activities for all 21 regional centers, totaling \$10.7 million. According to the department, in reviewing regional centers' proposals, they took into account statewide needs and available resources, as well as information gathered during the department's statewide stakeholder meetings. In addition, proposals were analyzed for compliance with applicable statute and regulations, and the department's guidelines.

Grants to regional centers ranged from \$24,000 to \$1.3 million and funded projects include the translation of printed materials, hiring of specialized regional center staff, interpreter services and equipment, training for regional center staff and providers, outreach activities, and incentives to increase multilingual provider services.

Stakeholders have proposed various actions related to this issue, including, but not limited to:

- Provide grant funding to community-based organizations, other than regional centers, who reflect those groups disadvantaged by funding disparities.
- Require proposals to be publicly posted prior to, and following, approval.
- Fund statewide strategies, such as cultural sensitivity training to all regional center management and case workers.
- Utilize an independent evaluator to assess the effectiveness of funded activities.
- Remove the cap on the provision of respite services and reinstate the provision of recreation and services that have historically been highly utilized by ethnically diverse families.
- Remove barriers to the timely delivery of Early Start Program services.

**Respite and Recreation Services.** In the face of a serious economic downturn and acute budget shortfalls, the Budget Act of 2009 suspended the provision of social recreational and camping services through the regional center system and limited the use of respite services to 90 hours of in-home respite over a three month period and 21 days of out-of-home respite in a fiscal year. At the time, these limitations were anticipated to be temporary, pending implementation of the “Individual Choice Budget” option, established by AB X4 9 (Evans), Chapter 9, Statutes of 2009. However, that option has never been implemented.

At the March 16<sup>th</sup> hearing of this subcommittee, Disability Rights CA (DRC) and the Association of Regional Center Agencies (ARCA) proposed the reinstatement of recreational and camping services and removing the cap on respite services, as a significant way to address disparities. According to the ARCA, individuals requesting these services generally reside with their families, and those with ethnically diverse backgrounds are far more likely to live with their families into adulthood. ARCA

argues that restoring these services will assist families in continuing to live together and reduce the disparities in POS expenditures.

In response to a request for technical assistance, the department estimates that, with an effective date of January 1, 2018, and accounting for a ramp up effect over two fiscal years, the budget year costs for the restoration of social recreation programs would be \$6.2 million (\$4.1 million General Fund); \$30.2 million (\$19.6 million General Fund) in 2018-19. The full year impact when ramp-up is complete would be \$37.8 million (\$24.6 million General Fund).

The department's estimated costs for removing the cap on respite services is \$10.3 million (\$5.6 million General Fund) in the budget year, assuming a January 1, 2018 implementation date; \$21.6 million (\$11.7 million General Fund) in 2018-19.

**Early Start Program.** The Early Start Program provides families with children aged 0-3 who have a developmental delay or disability, or an established condition with a high probability of resulting in a delay, with appropriate early intervention and family support services.

AB X4 9 also required that early start families use private insurance or health care service plan for medical services other than evaluation and assessment, requiring families to produce a written letter of denial of coverage and a regional center to determine further appeal would be unsuccessful before the regional center can fund services. In practice, families have been challenged by the sometimes complex process of pursuing an appeal to their insurance provider, whether the frequency and manner in which a service is approved by their insurer meets the needs of the child or family, and whether a sufficient network of providers exists.

Under an exception process, regional centers may provide funding while coverage is being sought, pending a decision on an appeal, or until coverage begins. Additionally, the individual family service plan (IFSP), required for each regional center consumer and/or family, specifies the nature, frequency and duration of each needed service and should result in the regional center's ability to fund or augment any service where the benefit provided by the insurer does not meet the stated need in the IFSP. However, regional centers interpret and apply this exception differently. Given the central role of early intervention and support in the Early Start Program, these delays can be significant and potentially life-altering to impacted children and families. The appeal process with insurers and with regional centers are often time-consuming and complex; sometime families must pursue both concurrently. For families already under stress, or families facing language or cultural barriers, these barriers may be insurmountable.

DRC proposes trailer bill language to clarify that regional centers should consider if the insurance benefits are available and appropriate as part of the IFSP.

Question for DDS:

- Provide an update on the status of the projects funded through the disparities funding and discuss how you plan to evaluate the impact of these efforts.

**Staff Comments and Recommendation:** Although concerns about the disparities in service delivery in the developmental disabilities system are not new, historically, little concerted effort has been made to address the problem. The stated commitment of the new director is encouraging; however, the

subcommittee may wish to take additional steps to reduce disparities in the regional center system by taking the following actions:

1. **Adopt placeholder trailer bill language** to require the department to post the following on its website each year:
  - *By September 1<sup>st</sup>, a proposed grant structure including:*
    - *How community-based organizations reflecting groups disadvantaged by funding disparities will be invited to participate.*
    - *How statewide strategies were considered.*
    - *How the department will ensure grant funds are not used for activities that regional centers are otherwise require by statute or regulation to conduct.*
    - *How funded activities will be evaluated.*
  - *By October 1<sup>st</sup>, the final request for proposals or other mechanism through which grant proposals are solicited.*
  - *By January 1<sup>st</sup>, a list of grant recipients, funding level per grant, and a description of the funded project.*
  - *By May 1<sup>st</sup> of any year in which the information is available, evaluation results.*
2. **Adopt conceptual placeholder trailer bill language** to clarify that regional centers should consider if insurance benefits are available and appropriate as part of the IFSP process.
3. **Augment the POS budget by \$5.6 million GF (\$10.3 million total funds) and adopt placeholder trailer bill language** to remove the cap on respite services.

<b>ISSUE 8: Home and Community-Based Services Waiver Policy Directives – Trailer Bill Language – Open Issue</b>
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**Background:** The Administration has proposed trailer bill language that will allow the department to issue policy directives in advance of emergency regulations in order to align state and federal regulations prior to the implementation deadline of the federal final rule related to the Home and Community-Based (HCBS) Waiver.

California receives approximately \$1.8 billion in federal funding annually for approximately 130,000 persons with developmental disabilities through the federal HCBS programs and 1915(i) State Plan option. These programs provide Medicaid funding for eligible individuals to receive services and supports in home and community-based settings, rather than in an institution. In order to continue to receive these funds, states must comply with new waiver conditions, called the “final rule”, by March 2019. The final rule requires a person-centered planning process, greater choice in life decisions and daily living, and requires services and supports be provided in settings that maximize independence and community integration. The federal final rule was published in early 2014 and states are required to submit their transition plan describing how they will bring programs into compliance with the regulations by March 2019. The state submitted its revised transition plan to the federal Centers for Medicare and Medicaid Services (CMS) in November of 2016.

**Staff Comments and Recommendation – Reject proposed trailer bill language.** This issue was discussed on March 16<sup>th</sup>. On May 9<sup>th</sup>, the department was informed by the CMS that the transition period for states to demonstrate compliance with the HCBS criteria has been extended until March 1, 2022. With this three-year extension, granting the department the authority to issue policy directives in advance of emergency regulations is premature. However, the subcommittee may wish to encourage the department to begin the regular regulatory process with due haste so there is sufficient time for a full public process prior to their adoption.

#### **ISSUE 9: Paid Internships – Trailer Bill Language – Open Issue**

**Background.** WIC 4648.55 (a) prohibits regional centers from purchasing specified services, including employment-related services, for a consumer aged 18 to 22, if the consumer is eligible for special education and has not received a diploma or certification of completion, unless the individual program plan (IPP) planning team determines the consumer’s needs cannot be met by the educational system or an exemption is granted.

AB X2 1 (Committee on Budget), Chapter 3, Statutes of 2016, provided \$29 million (\$20 million General Fund) for the department to establish a competitive integrated employment (CIE) program.

The Administration has proposed trailer bill language to exempt 18 to 22 year olds from the provisions of WIC 4648.55 (a) if the consumer is still receiving educational services and participating in a paid internship. The Administration argues the proposed trailer bill language is necessary to allow individuals who, pursuant to their IPP, express a desire to and could benefit from an internship program.

Stakeholders have suggested that the language be expanded to also exempt a consumer who has completed a paid internship and is ready to transfer to paid employment with supports.

**Staff Comments and Recommendation – Adopt placeholder modified trailer bill language:** This issue was discussed on March 16<sup>th</sup>.

*(1) For participation in a paid internship or competitive integrated employment that is an outcome of a paid internship pursuant to subdivision (a) of section 4870 if the IPP planning team determines that the consumer could benefit from participation in a paid internship. Participation in a paid internship or competitive integrated employment that is an outcome of a paid internship does not preclude an individual from continuing to receive public education services to the extent those services are determined to continue to meet the individual’s needs.*

#### **ISSUE 10: Reporting of Employment Outcomes by Regional Centers – Trailer Bill Language – Open Issue**

**Background:** The department has proposed language to require regional centers, through the performance contract process, to measure progress and report outcomes in implementing the “employment first” policy. According to the department, the outcomes and measures contained in performance contracts have remained relatively unchanged since 2001. They further report that three years ago, the department began “encouraging” regional centers to include employment outcomes as part of their local measures, however, five regional centers have not done so.

California Disability Services Association (DSA) requests language to require more specific data collection and reporting outcomes over time, specifically related to the number of individuals with reported earnings and average earnings. SB 433 (Mendoza) would authorize data sharing between the Department of Developmental Services and Employment Development Department in order to assess and implement statewide employment goals for individuals with developmental disabilities. The bill has been approved by the Senate and is awaiting committee assignment in the Assembly. Disability Rights CA proposes more detailed reporting focused on outcomes.

**Staff Comments and Recommendation – Adopt placeholder trailer bill language:** When this issue was discussed on March 16<sup>th</sup>, questions were raised as to whether the department needed statutory authority to include performance contract objectives necessary to ensure regional centers are in compliance with state law and regulations. The subcommittee may wish to modify the Administration’s proposed language, as follows, to clarify this point.

*(a) The state shall enter into five-year contracts with regional centers, subject to the annual appropriation of funds by the Legislature.*

*(b) The contracts shall include a provision requiring each regional center to render services in accordance with applicable provision of state laws and regulations.*

*(c) (1) The contracts shall include annual performance objectives that the department determines are necessary to ensure each regional center is complying with subsection (b), including but not limited to, shall do both of the following:*

<b>ISSUE 11: Unanticipated Rate Adjustments and Health and Safety Waiver Requests – Stakeholder Proposal</b>
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**Background:** The department has two processes to increase a community provider’s rate outside of the usual rate-setting mechanisms. These are the health and safety waiver process, designed to be used on a consumer-by-consumer basis; and the unanticipated rate adjustment process, intended for use by day programs and in-home respite programs.

At its March 16<sup>th</sup> hearing, the subcommittee heard testimony that these processes can be burdensome, not always suited to the situation in which a provider requires a rate adjustment, and can lack the agility for timely decision-making.

**Staff Comments and Recommendation – Adopt placeholder trailer bill language:** The subcommittee may wish to adopt the following placeholder trailer bill language to accomplish the following:

*The department shall convene a working group consisting of regional centers and providers to consider a simplified process for providers seeking rate adjustments due to the health and safety of one or more consumers served by a provider; necessary to prevent movement of a consumer into a more restrictive and/or more costly program; or necessary to prevent the loss of services being provided and for which no appropriate alternative service is available; or other criteria agreed upon by the working group. The department shall report on the workgroup process and product during the 2018 budget subcommittee process.*

## **ISSUE 12: Community Placement Plan (CPP) Funding – Trailer Bill Language – Open Issue**

**Background.** The Administration proposes to amend existing statute to allow regular CPP funds to be used to develop and fund resources in the community for individuals transitioning from other institutional settings or who are already living in the community.

WIC Section 4418.25 requires the department to establish policies and procedures for the development of an annual community placement plan by regional centers. The CPP is designed to enhance the capacity of the community service delivery system and to reduce the reliance on the use of developmental centers other restrictive living environments by providing funding to the regional centers for the development of a variety of resources. These resources include residential development, initial placement costs, transportation, day program services, and mental health and crisis services.

The CPP provides dedicated funding for comprehensive assessments of developmental center residents, for identified costs of moving individuals from DCs to the community, and for deflection of individuals from developmental center admission. The plans include budget requests for regional center operations, assessments, resource development, and ongoing placement costs.

As the developmental centers move toward closure, the need to develop new specialized resources for these populations will decline. However, as institutional and out-of-state service options become unavailable, there will be an increasing demand for community-based services and supports to meet the needs of consumers already in the community, including those with complex and challenging needs. The proposed language will authorize the use of CPP funds to develop resources for individuals transitioning from institutional settings or are already living in the community.

**Staff Comments and Recommendation – Adopt placeholder modified trailer bill language:** This issue was discussed on March 16<sup>th</sup>. The Administration proposes to modify existing statute, Welfare and Institutions Code (WIC) 4418.25, that was designed to primarily facilitate the movement of persons from a developmental center to the community. As the developmental centers are scheduled to close within the next few years, amending this section may not be the appropriate route for establishing the process by which ongoing CPP funds are used to address gaps in community resources.

Alternatively, Article 2 of the WIC (Sections 4675, et al), describes another process by which the department, in consultation with other system stakeholders, plan and develop new and expanded community resources.

The subcommittee may wish to adopt conceptual placeholder trailer bill language, and direct staff to work with the Administration to develop language that more appropriately reflects the goals of addressing community system gaps and emerging needs, including those that relate to reducing reliance on restrictive settings and serving persons with complex and challenging needs.

## **ISSUE 13: Headquarters-Community Housing Development Oversight- BCP – Open Issue**

**Proposal:** The budget proposes \$597,000 (\$554,000 General Fund) for four permanent positions to

oversee the development of permanent community housing by the regional centers. Specifically, the department requests:

- One career executive assignment (CEA) position to review and make recommendations regarding housing development and funding policies and guidelines, as well as provide overall planning, leadership, and guidance from concept through post development.
- One staff services manager I who will assist the CEA and existing Community Development and Housing Section management with the coordination and implementation of housing review activities.
- Two associate governmental program analysts who will conduct housing review and compliance activities, including reviewing and updating tracking tools.

**Staff Comments and Recommendation – Approve as budgeted and adopt placeholder supplemental report language:** This issue was heard on March 16. For many years, the department has used community placement plan funding to develop new housing options in the community. These efforts accelerated as closure plans for developmental centers were adopted, and are proposed to continue through the previously discussed CPP proposal. The subcommittee may wish to consider adopting the following supplemental report language to require the department to submit more detailed information regarding housing development and funding policies and guidelines and how unmet needs and community priorities will be addressed and how the development of housing will be monitored. Additionally, the subcommittee may wish to require on-going annual reporting to measure the impact of these housing development initiatives on the overall availability of housing options to meet the varied needs of regional center consumers.

*By September 1, 2018, the department shall report to the Senate and Assembly committees on human services and the appropriate legislative budget subcommittees on the following:*

- *Housing development and funding policies and guidelines.*
- *How the department and regional centers will assess community unmet needs and local priorities.*
- *How the department will monitor housing development.*

*Annually, by April 1, the department shall report to the Senate and Assembly committees on human services and the appropriate legislative budget subcommittees on the following:*

- *Type and number of housing projects approved, in progress, open, occupancy, by regional center.*
- *Total number of new beds by facility type, by regional center.*
- *The degree to which housing development gains have been offset by program closures, by facility type, by regional center.*

#### **ISSUE 14: Safety Net Development – May Revision Proposal – Trailer Bill Language.**

**Proposal:** The May Revision proposes an augmentation of \$21.2 million (\$7.5 million in new one-time General Fund; \$13.7 million other) for the following initiatives related to the development of a system “safety net” for persons in crisis or otherwise difficult to serve.

**Background:** In 2013, the secretary of the California Health and Human Services Agency established a task force on the future of developmental centers which included a broad cross-section of members representing consumers, family members, regional centers, consumer advocates, community service providers, organized labor and the Legislature. The work of the task force culminated in the “Plan for the Future of Developmental Centers in California,” available at: <http://www.chhs.ca.gov/DSTaskForce/PlanfortheFutureofDevelopmentalCenters.pdf>.

Included in the task force report were the following six recommendations:

1. *More community style homes/facilities should be developed to serve individuals with enduring and complex medical needs using existing models of care.*
2. *For individuals with challenging behaviors and support needs, the State should operate at least two acute crisis facilities, and small transitional facilities. The State should develop a new “Senate Bill 962” like model (medical) that would provide a higher level of behavioral services. Funding should be made available so that regional centers can expand mobile crisis response teams, crisis hotlines, day programs and short-term crisis homes, new-model behavioral homes, and supported living services for those transitioning to their own homes.*
3. *For individuals who have been involved in the criminal justice system, the State should continue to operate the Porterville DC-Secure Treatment Program (STP) and the transitional program at Canyon Springs Community Facility. Alternatives to the Porterville DC-STP should also be explored.*
4. *The development of a workable health resource center model should be explored, to address the complex health needs of DC residents who transition to community homes.*
5. *The State should enter into public/private partnerships to provide integrated community services on existing State lands, where appropriate. Also, consideration should be given to repurposing existing buildings on DC property for developing service models identified in Recommendations 1 through 4.*
6. *Another task force should be convened to address how to make the community system stronger.*

In 2014, the secretary formed the Developmental Services Task Force, including members of the previous task force and five additional members with expertise specific to community-based services. Among other things, this task force made recommendations related to a system “safety net”, defined by the task force as:

*Timely access to essential services and supports necessary for persons with developmental disabilities to maintain health and safety and to address medical, psychiatric, behavioral, residential, staffing, equipment, or other needs, when other services and supports fail, are interrupted, are not available, or additional*



*services and supports are necessary for an urgent or medical need. May or may not require a change in placement.*

Specific recommendations from the task force included:

- 1. Creation of a funding source similar to the Community Placement Plan (CPP) to start up new services for individuals currently being served in the community and develop safety net services.*
- 2. Development of crisis services throughout the state, including more mobile crisis teams for timely intervention and more attention to medication management.*
- 3. Increased options for developmental center staff staff to support consumers in the community.*

In response to SB 82 (Committee on Budget and Fiscal Review), Chapter 23, Statutes of 2015, which required the department to submit a plan or plans to close one or more developmental center(s) to the Legislature by October 1, 2015, the department submitted a plan to close Sonoma by December 31, 2018. On April 1, 2016, the department submitted to the Legislature a plan for the closure of the Fairview Developmental Center and the Porterville Developmental Center – General Treatment Area by the end of December 2021.

The Budget Act of 2017-18 included trailer bill language to require the department to report back on its safety net strategy:

Welfare and Institutions Code Section 4474.15(a):

*The State Department of Developmental Services shall include an update to the Legislature in the 2017–18 May Revision regarding how the department will provide access to crisis services after the closure of a developmental center and how the state will maintain its role in providing residential services to those whom private sector vendors cannot or will not serve. As part of this plan, the department shall assess the option of expanding the community state staff program authorized in Section 4474.2 to allow the department’s employees to serve as regional crisis management teams that provide assessment, consultation, and resolution for persons with developmental disabilities in crisis in the community.*

In January and February 2017, the department organized and facilitated three safety net stakeholder meetings in Napa, Fresno and Costa Mesa. Participants in these meetings included representatives from the developmental services system, and included experts from universities, practitioners in the fields of psychiatry and behavioral health, and other interested state agencies.

On May 11<sup>th</sup>, as part of the May Revision, the Administration proposed to fund the following initiatives related to the development of the safety net. However, the department’s Plan for Crisis and Other Safety Net Services in the California Developmental Services System, otherwise known as the “safety net plan,” was not publicly released until May 13<sup>th</sup>. The following chart describes each proposed component and the fund source. Outside of this chart, no fiscal detail has been provided for the proposed components of the safety net plan.

Safety Net Plan Concept	May Revise Request	Existing Funds	Funding	2017-18 Estimated Cost
Establish two state-operated mobile acute crisis teams.	\$1.9 million		General Fund	\$1.9 million
Develop intensive wrap-around services for persons with co-occurring developmental disabilities and mental health needs.		\$3.0 million	RC POS	\$3.0 million
Plan for the relocation and expansion of the current state-operated acute crisis services, known as STAR homes. <ul style="list-style-type: none"> <li>Renovate two existing homes on Fairview Developmental Center's Mark Lane.</li> <li>Develop 2 four- or five-bed homes in Fiscal Year (FY) 2017-18 and 1 four- or five-bed home in FY 2018-19 in Northern California to relocate Sonoma STAR services and expand crisis capacity in Northern California.</li> </ul>	\$2.6 million	\$1.3 million \$0.4 million	Harbor Village Account General Fund and CPP Start-Up	\$1.3 million \$3.0 million
Increase options to serve individuals with the most challenging service needs. <ul style="list-style-type: none"> <li>Develop 4 vendor-operated four-bed homes in FY 2017-18 to provide step-down services for dual diagnosed individuals transitioning from IMDs or other restrictive settings.</li> <li>Develop 2 vendor-operated four-bed homes in FY 2017-18 and 1 four-bed home in FY 2018-19 to provide step-down services for the Porterville Secure Treatment Program (STP).</li> <li>Develop intensive wrap-around services for transitioning out of STP.</li> </ul>	\$3.0 million	\$6.0 million \$3.0 million	CPP Start-Up CPP Start-Up General Fund	\$6.0 million \$3.0 million \$3.0 million
<b>Total</b>	\$7.5 million	\$13.7 million		\$21.2 million

Source: Department of Developmental Services

Generally, the plan provides multiple strategies to address the needs of persons who may be hard to serve in traditional models or who are in crisis. These strategies add to the development of enhanced behavioral supports homes (EBSH) and community crisis homes, approved in the 2014 budget act; and the ongoing funding of transitional homes, crisis support services and health services funded through the regular POS budget and enhanced through CPP funding.

Several of the initiatives proposed to be funded through the May Revision request have been described by the department, as follows.

- State-operated mobile acute crisis teams.** The department proposes to establish northern and southern mobile crisis teams, to be co-located with existing STAR services (crisis units) at Sonoma and Fairview developmental centers. The teams would provide community assessment, crisis services/mental health treatment for stabilization, and provide services and supports to help maintain individuals in their existing residence. These teams will be available 24-hours a day, seven days a week. With 10 days of deployment of a state mobile crisis team, an interdisciplinary team meeting will be scheduled to assess services supports. If needed, the mobile acute crisis team support may continue as identified through the IPP, until ongoing services support alternatives are identified. Mobile crisis teams are expected to be operational in August 2017. DDS will be providing the existing STAR training to additional developmental center staff to ensure trained staff are available for STAR and mobile acute crisis services. Staffing will be re-evaluated after one year of operation. Starting in 2018-19, the department will bill regional centers for these services. For each mobile unit, the department proposes .5 psychologist; .75 social worker, and five psychiatric technicians and one supervising senior psychologist position located at headquarters. The department notes that they will contract for additional services as needed and that staffing is subject to change as program design is finalized.
- Intensive wrap-around services for persons with co-occurring developmental disabilities and mental health needs.** These services will allow individuals to successfully transition out of placement in highly restrictive settings such as Institutions for Mental Disease (IMDs) and acute crisis services, into appropriate community settings. Availability of these services will also help prevent admissions into these highly restrictive settings. DDS proposes to convene key regional centers to develop this service option for individuals currently being served in, or at risk of admission to, an IMD setting. Vended services will be provided under the service code established to support transitions from CCHs, with individualized rate setting. Services are expected to be operational in October 2017.
- Development of four vendor-operated four-bed homes in 2017-18 to provide step-down services for dual diagnosed individuals now served in IMDs or other emergency facilities.** These homes will be located throughout the state to serve as “step-down” options from IMDs, STAR units at the developmental centers, and other highly restrictive settings. The homes will provide time-limited residential services, as defined in the IPP and include intensive psychiatric supports and intensive services and treatment to address the developmental needs and prepare individuals for transition to a less restrictive setting, in combination with the concept of intensive transitional and preventative support services. These homes will be licensed as CCHs, with intensive mental health components. Homes may use delayed egress devices. The department does not expect these homes will require a secure perimeter. Homes are projected to be available by March 2019.

Similar descriptions have not been provided to staff for the following proposed safety net initiatives.

- Refurbishing two existing homes on Fairview Developmental Center’s Mark Lane, through an amendment of the existing ground lease. Once complete, one home will be used to relocate the current five-bed Southern STAR (Stabilization, Training, Assistance and Reintegration) services, and the other home will allow an expansion for up to five individuals.

- Development of two four- or five-bed homes in 2017-18 and one four- or five-bed home in 2018-19 in Northern California to relocate Sonoma DC STAR services and expand the crisis capacity by eight to 10 beds.
- Development of two vendor-operated four-bed homes in FY 2017-18 and one four-bed home in 2018-19 in the Porterville area to provide step-down services for the Porterville Secure Treatment Program (STP).
- Development of intensive wrap-around services for individuals transitioning out of the Porterville STP, through a contract with a private organization.

**Proposed Trailer Bill Language.** The May Revision proposes trailer bill language to authorize an amendment to the existing ground lease for property at Fairview Developmental Center, known as Harbor Village, to renovate and maintain the two Southern STAR homes. They further identify the CPP trailer bill language proposed in the January budget and discussed earlier in the agenda, as a part of the “safety net” package. Committee staff would add to the list of proposed trailer bill associated with the “safety net” package the Administration’s proposed trailer bill to extend the exemption from federal funding eligibility to EBSHs and CCHs that utilize delayed egress/secured perimeters, discussed by this subcommittee at its March 16<sup>th</sup> hearing.

**Legislative Analyst’s Office.** The LAO issued preliminary comments prior to the release of the department’s safety net plan report. Overall, the LAO agrees with the important purpose of this proposal, believe that it begins to address longstanding concerns and complements existing community efforts, and includes a “resourceful” funding model. However, the LAO finds that the proposal lacks some supporting detail, such as the extent of demand of safety net services; implementation details, such as staffing, facility locations and characteristics, and opening dates; how services will be chosen for or by consumers and whether services will be culturally sensitive; how the department will evaluate the proposal’s effectiveness and how it will determine future need. Finally, the LAO notes that the Legislature has little time to evaluate this proposal, despite the significant need to begin timely development of safety net services in light of the pending closures of the developmental centers.

The LAO recommends the adoption of supplemental report language to direct DDS to submit a long-term funding plan for crisis and other safety net services in conjunction with the submittal of the 2018-19 Governor’s budget.

Questions for DDS:

- Please present your proposal.
- Why weren’t these proposals made in January or April, affording both the Legislature and the public more time to review?
- How were the funding levels determined?
- At this point, you’ve proposed very little trailer bill language. Do you envision that more will be necessary before these facilities open? If so, in what areas?
- Do you envision that the same rights and protections provided to persons in developmental

centers now will be extended to persons living in these safety net facilities?

- Do you envision that the STAR units at the developmental centers will remain open until the proposed crisis facilities are available in the community?
- Once the STAR facilities are closed, where will the mobile crisis teams be housed?
- How will providers and families access mobile crisis team?
- Will crisis teams be able to make “real time” decisions that are responsive to the crisis at hand?

**Staff Comment and Recommendation: Reduce May Revision by \$1 million (General Fund) in order to move the discussion (funding and three pieces of tbl) forward to budget conference committee.** The department should be commended for their efforts to address safety net needs in light of the pending closure of the developmental centers, and to meet the needs of persons already living in the community. However, the issues are complex, the plan lacks detail, and staff and the public have had insufficient time to review the plan. Staff finds merit in the LAO recommendation to require the department to report back to the Legislature in January 2018. However, by that time significant decisions about the issues LAO raises will have been made.

An alternative approach might be to require the department to submit a more detailed implementation and spending plan that includes detailed program and process design descriptions, to the Joint Legislative Budget Committee, and policy and budget subcommittees prior to the expenditure of funds.

The best approach may require further discussion between the Administration and legislative staff, and afford stakeholders more time to comment on the proposal. Therefore, staff recommends that the committee approve a reduced augmentation to send this issue to the budget conference committee.

**2017-18 May Revision  
Department of Developmental Services  
Consumers Receiving BHT Services**

**14,055 Consumers  
w/ ASD Diagnosis**

12,372 Consumers Transitioned to Medi-Cal Managed Care 2/16-10/16

- For 2016-17 and 2017-18, the May Revision proposes an increase of \$29.8 million (\$14.2 million GF) to reflect lower savings than previously estimated based on most recent expenditures for transitioned consumers.

1,683 Consumers Transitioned to DHCS FFS 2/16

- For 2016-17, the May Revision proposes to increase DDS' budget by \$7.1 million GF to reflect the loss of reimbursements from DHCS given the lack of federal fund eligibility.
- In 2017-18, the May Revision proposes DHCS FFS reimbursement authority of \$7.4 million for these consumers.
- Clinical recommendations are required for BHT services to be eligible for Medi-Cal reimbursements. The May Revision proposes \$1.3 million (\$1.0 million GF) to fund regional center psychologist positions to provide recommendations.

**6,000 Consumers  
No ASD Diagnosis**

1,720 Consumers are estimated to Transition to Medi-Cal Managed Care beginning 1/18 (proposed at May Revision)

- For 2017-18, the May Revision proposes a GF reduction of \$2.4 million to reflect the phased-in transition of these consumers to Medi-Cal.

280 Consumers are estimated to Transition to DHCS FFS beginning 1/18 (proposed at May Revision)

- Clinical recommendations are required for BHT service expenditures to be eligible for Medi-Cal reimbursements. (\$1.3 million request for psychologist positions).
- For 2017-18, the May Revision proposes to reduce GF by \$0.9 million and increase reimbursement authority by \$0.9 million.

4,000 Consumers are estimated to continue receiving BHT services from Regional Centers

- For 2016-17, the May Revision proposes to increase DDS' budget by \$14.8 million GF to cover partial year lost FFP beginning 10/1/16.
- For 2017-18, the May Revision proposes to increase DDS' budget by \$16.5 million GF to cover full year lost FFP.