

SUBCOMMITTEE NO. 3

Agenda

Senator Caroline Menjivar, Chair
Senator Susan Talamantes Eggman, Ph.D.
Senator Shannon Grove
Senator Richard D. Roth



Thursday, March 21, 2024
9:30 am, or upon adjournment of session
1021 O Street – Room 1200

Consultant: Elizabeth Schmitt

<u>Item</u>	<u>Department</u>	<u>Page</u>
5160 DEPARTMENT OF REHABILITATION.....		3
ISSUE 1: DEPARTMENT OF REHABILITATION OVERVIEW		3
ISSUE 2: VOICE OPTIONS PROGRAM.....		8
PUBLIC COMMENT ON DOR ISSUES 1-2.....		9
 4300 DEPARTMENT OF DEVELOPMENTAL SERVICES.....		 10
ISSUE 1: DEPARTMENT OF DEVELOPMENTAL SERVICES OVERVIEW.....		10
ISSUE 2: MASTER PLAN FOR DEVELOPMENTAL SERVICES		16
ISSUE 3: IMPLEMENTATION OF EQUITY AND OVERSIGHT MEASURES FROM THE 2023 BUDGET ACT		22
ISSUE 4: RATE REFORM DELAY		28
ISSUE 5: INDIVIDUAL PROGRAM PLAN MEETINGS.....		33
PUBLIC COMMENT ON DDS ISSUES 1-5.....		35
 ISSUE 6: PRESCHOOL INCLUSION GRANTS DELAY		 36
ISSUE 7: SELF-DETERMINATION PROGRAM PARTICIPANT CHOICE SPECIALISTS		37
ISSUE 8: REGIONAL CENTER FAMILY FEES		39
ISSUE 9: DDS ITEMS IN HOME AND COMMUNITY-BASED SERVICES (HCBS) SPENDING PLAN.....		41
ISSUE 10: PROBABILITY SAMPLING AND STATISTICAL EXTRAPOLATION		43
PUBLIC COMMENT ON DDS ISSUES 6-10.....		44

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5160 DEPARTMENT OF REHABILITATION**Issue 1: Department of Rehabilitation Overview**

Department of Rehabilitation (DOR). The Department of Rehabilitation (DOR) works in partnership with individuals with disabilities and other stakeholders to provide direct services and advocacy prioritizing employment, independent living, and equality for individuals with disabilities. DOR provides services to over 130,000 Californians with disabilities annually to obtain, retain, and advance in employment with competitive wages in integrated settings, and to maximize equality and the ability to live independently in communities of their choice.

Governor's Budget. The Governor's proposed 2024-25 budget includes \$576.3 million total funds (\$85.2 million General Fund) for DOR programs related to vocational rehabilitation and independent living services. The 2024-25 proposed budget reflects a \$26.8 million (\$16.8 million General Fund) reduction primarily due to one-time appropriation for programs such as Demand Side Employment Initiative, Integrating Employment in Recovery, Community Living Fund, and Home and Community-Based Services (HCBS) Traumatic Brain Injury (TBI) program.

Budget Solution – Governor's Budget: DDS Rate Reform Delay Impact on DOR. The DOR budget includes \$1.6 million due to a delay in the supported employment job coaching services rate increase, to conform with the 2024-25 Governor's proposal to delay full implementation of the Department of Developmental Services (DDS) Rate Reform, with the next rate adjustment occurring July 1, 2025, rather than July 1, 2024. The proposed DDS Rate Reform delay is included in Issue 4 of this agenda under DDS.

According to DOR, DOR shares mutual consumers and many of the same service providers with DDS in the provision of Supported Employment job coaching. Job coaches are a vital and necessary service for many job seekers with the most significant disabilities, including IDD. DOR has rate setting authority (California Code of Regulations, Title 9, Section 7321) and has historically adopted the rates that DDS sets for job coaching services. Delaying DOR's job coaching rate increase to conform with DDS ensures there is no disparity in the service rates paid to the same providers working with DOR and DDS. DOR is currently not expecting that the delay in the full implementation of rate reform will have an immediate impact on the number of DOR consumers receiving job coaching services in the coming year.

The Governor's proposed 2024-25 budget contains one budget change proposal for DOR, which is covered in Issue 2 of this agenda. There are no additional changes to the DOR budget.

The table below provides an overview of DOR's funding from current year to the proposed Governor's budget for 2024-25.

	FY 2023-24	FY 2024-25	Difference
Vocational Rehabilitation Services			
General Fund	\$84,154,000	\$77,063,000	(\$7,091,000)
Vending Stand Fund	\$3,361,000	\$3,361,000	\$0
Federal Trust Fund	\$464,488,000	\$459,782,000	(\$4,706,000)
Reimbursements	\$8,080,000	\$8,080,000	\$0
Opioid Settlements Fund	\$3,896,000	\$0	(\$3,896,000)
Total, Vocational Rehabilitation Services	\$563,979,000	\$548,286,000	(\$15,693,000)
Independent Living Services			
General Fund	\$17,893,000	\$8,163,000	(\$9,730,000)
DDTP Admin Committee Fund	\$0	\$3,657,000	\$3,657,000
Federal Trust Fund	\$16,205,000	\$16,202,000	(\$3,000)
Reimbursements	\$3,657,000	\$0	(\$3,657,000)
HCBS ARP Fund	\$1,384,000	\$0	(\$1,384,000)
Total, Independent Living Services	\$39,139,000	\$28,022,000	(\$11,117,000)
Total Funding			
General Fund	\$102,047,000	\$85,226,000	(\$16,821,000)
DDTP Admin Committee Fund	\$0	\$3,657,000	\$3,657,000
Vending Stand Fund	\$3,361,000	\$3,361,000	\$0
Federal Trust Fund	\$480,693,000	\$475,984,000	(\$4,709,000)
Reimbursements	\$11,737,000	\$8,080,000	(\$3,657,000)
Opioid Settlements Fund	\$3,896,000	\$0	(\$3,896,000)
HCBS ARP Fund	\$1,384,000	\$0	(\$1,384,000)
Total, All Funds	\$603,118,000	\$576,308,000	(\$26,810,000)

Background on DOR. Major DOR programs include:

Vocational Rehabilitation (VR) Program. The Vocational Rehabilitation Program delivers vocational rehabilitation services to individuals with disabilities through vocational rehabilitation professionals in district and branch offices located throughout the state, so that individuals with disabilities may prepare for and engage in competitive integrated employment and achieve economic self-sufficiency. In addition, DOR has cooperative agreements with state and local agencies (secondary and postsecondary education, behavioral/mental health, and welfare) to provide services to individuals.

Since November 2020, DOR has been serving eligible individuals in all disability categories. Individuals with disabilities who are eligible for DOR's vocational rehabilitation services may be provided a full range of services, including vocational assessment, assistive technology, vocational and educational training, job placement, supported employment, and independent living skills training to maximize their ability to live and work independently.

VR services are funded with 78.7 percent federal dollars and 21.3 percent matching funds, part of which are provided by General Fund and part by public agencies through DOR's cooperative program agreements. Federal law requires DOR to set aside no less than 15 percent of the federal VR grant to

provide pre-employment transition services (also known as Student Services) to students with disabilities ages 16-21. DOR Student Services include job exploration counseling, work-based learning experiences, postsecondary education counseling, workplace readiness training, and instruction in self-advocacy.

The 2023 Budget Act includes an increase of \$180 million in federal fund authority over the next three fiscal years (\$60 million each year beginning in 2023-24 through 2025-26) to expand Vocational Rehabilitation services to individuals with disabilities. As of October 2023, DOR has 117,542 participants in the DOR's vocational rehabilitation program, which represents a 16 percent increase from 2022. Out of those participants, 44,991 are receiving DOR Student Services, which represents an 18 percent increase.

Blind/Visually Impaired Programs. DOR, through its Business Enterprises Program, provides comprehensive training and technical assistance to enable individuals who are blind or visually impaired to support themselves in the operation of vending stands, snack bars, and cafeterias. Prevocational, including employment readiness, services are provided by the Orientation Center for the Blind to individuals with vision loss to prepare them for independent living.

DOR administers the federal Older Individuals Who Are Blind (OIB) program which supports 16 non-profit community-based organizations throughout California that provide blindness-related independent living services necessary to assist visually impaired individuals age 55 or older to live independently and be productive in their communities. Core services consist of low vision evaluations/screenings, assistive technology devices and training, orientation and mobility, communication skills, independent living skills training, self-advocacy, adjustment counseling, transportation, and supportive services. AB 2480 (Arambula), Chapter 532, Statutes of 2022, expands similar services to adults aged 18 to 55 who are blind and who previously were not eligible for OIB or VR programs.

Disability Innovation Fund Programs. DOR administers the Pathways to Success Project (PSP) to increase competitive integrated employment outcomes, economic self-sufficiency, independence, and inclusion, through a unique service delivery design supported by sector-specific teams specializing in high-wage, high-skill, and high-demand careers for individuals with disabilities. The PSP, which is a pilot research project, is particularly targeted at underrepresented communities, including people of color, women, and individuals with IDD.

In addition, DOR administers the federally funded California Subminimum Wage to Competitive Integrated Employment Project (CSP) to provide a comprehensive set of interventions and supports to increase competitive integrated employment outcomes, independence, economic self-sufficiency, and inclusion for individuals with the most significant disabilities currently in, or contemplating entering, subminimum wage employment. The CSP, which is a pilot research project, will establish evidence-based approaches to vocational rehabilitation service delivery that will improve the employment outcomes of its participants, transitioning more workers with disabilities into competitive integrated employment. In the five months since its launch, there are 38 participants with IDD enrolled in the program, benefitting from services such as disability support classes, career exploration, work experience, and career technical education to gain competitive integrated employment. The program remains on track to meet the goal of serving 400 participants before the end of the grant period in September of 2027.

Integrating Employment in Recovery (IER) Program. DOR received \$4 million from the Opioid Settlements Fund to administer the Integrating Employment in Recovery program to provide training to

the provider workforce on evidence-based practices to serve people with substance use disorders (SUD) related to opioid use that can be incorporated as a part of holistic recovery. The training focuses on incorporating the full range of vocational rehabilitation services into treatment delivery as part of a whole-person approach to recovery and developing supports for individuals returning to or transitioning into work during and following treatment.

Independent Living Program. DOR provides funding, administers, and supports 28 non-profit independent living centers in communities located throughout California. Each Independent Living Center provides services necessary to assist individuals with disabilities to live independently with full inclusion in their communities. Core services consist of information and referral, peer counseling, individual and systems change advocacy, independent living skills, housing assistance, personal assistance referral services, transition and diversion services to community-based living, and transition services to postsecondary life for youth.

Community Living Fund. DOR administers the Community Living Fund program which provides transition or diversion services for individuals to move from an institutional setting to the community or to support individuals who are at risk of going into an institution to remain in their community. The 2022 Budget Act included \$10 million General Fund one-time, available over three years to assist eligible older adults and persons with disabilities in transitioning from nursing homes to independent living. As of November 27, 2023, DOR has served 258 individuals with institutional transition and diversion services through grants with 30 community-based organizations throughout the state. Of those that were served, 237 individuals are receiving services to prevent them from going into an institutional setting and 21 individuals are receiving services to transition from an institution to independent living.

Traumatic Brain Injury (TBI) Program. DOR administers and supports the Traumatic Brain Injury (TBI) Program. In coordination with individuals and their families, six service state funded providers throughout California provide a coordinated post-acute care service model for individuals with TBI, including supported living, community reintegration, vocational supportive services, public awareness, and support for family, friends, and professionals within the TBI community. DOR also works with the federal government to administer a TBI partnership grant with which a state TBI Advisory Board has been established for the purpose of creating a TBI state plan, sustainability plan, statewide TBI registry, and needs assessment.

Assistive Technology (AT) Program. DOR administers the California AT Program through federal Assistive Technology Act of 2004 funds and Social Security Reimbursement funds. The AT Program includes device lending and demonstrations, equipment reutilization, and AT information and referral and technical assistance.

Voice Options Program. Through a partnership with the California Public Utilities Commission's Deaf and Disabled Telecommunications Program, DOR's Voice Options program provides eligible Californians who are unable to speak, or who have difficulty speaking, with a free speech-generating device. The goal of this program is to ensure full and equal telephone communications access for all Californians with disabilities.

Home and Community-Based Services (HCBS) Spending Plan – Traumatic Brain Injury (TBI) Program. DOR expanded the capacity of existing TBI sites and stood up six new TBI sites in alignment

with American Rescue Plan Act (ARPA) Home and Community-Based Services (HCBS) Spending Plan funding surrounding transition and diversion through community reintegration, personal care services through supported living services, and other supportive services to improve functional capabilities of individuals with TBI. The HCBS Spending Plan includes \$5 million total for the TBI expansion. As of September 2023, DOR had spent \$1.8 million of the \$5 million federal funding available. All HCBS Spending Plan funds must be spent by December 31, 2024.

Subcommittee Staff Comment and Recommendation – Hold Open.

Questions. The Subcommittee requests DOR respond to the following:

1. Please describe the proposed budget solution to decrease DOR rates in conjunction with the proposed DDS rate reform delay.
2. Please provide an update on the expansion of the Traumatic Brain Injury program funded by the HCBS Spending Plan. Is DOR on track to spend all of the federal funding by the deadline? How many additional clients were served by the expansion of the TBI program? What will happen to clients who are receiving services from the six additional sites funded with temporary HCBS funding?

Issue 2: Voice Options Program

Budget Change Proposal – Governor’s Budget. DOR requests \$3.6 million ongoing in Deaf and Disabled Telecommunications Program (DDTP) Administrative Committee Fund and 3.75 positions to administer the Voice Options program, a statewide Supplemental Telecommunications Equipment (STE) program and 0.25 positions to oversee the federal Assistive Technology Program with existing resources. In February 2023, the California Public Utilities Commission (CPUC) made the Voice Options Program permanent, and this proposal will provide DOR with ongoing funding and staff resources to continue serving individuals with speech disabilities by providing speech generating devices to gain independence and direct access to the telecommunication network. This proposal has no impact on the General Fund.

Background on the Voice Options Program. There are multiple types of disabilities that impact speech and communication including autism spectrum disorder, cerebral palsy, IDD, brain injury, as well as disability because of a stroke or certain types of cancer. People with speech disabilities may have little or no access to telecommunication systems that allow them to connect with vital services, maintain relationships with loved ones, and participate in the community. DOR funds 29 community-based organizations, which provide demonstrations and short-term loans of tablets and speech applications to 2,199 individuals with speech disabilities. In addition, the program has provided 2,027 of those individuals with long term loans of STE that best fit their specific needs. The Voice Options Program provides assistive technology equipment for individuals with speech disabilities to improve access to telecommunications through choice in type of device and speech application that will meet their specific needs.

Pursuant to AB 136 (Beall) Chapter 404, Statutes 2011, and the CPUC Decision 13-12-054 in Rulemaking 13-03-008, the CPUC expanded the DDTP to include speech generating devices for eligible individuals with speech disabilities to independently access and use telecommunications. In response, the CPUC developed the pilot Voice Options Program and partnered with DOR by initiating an interagency agreement. Pursuant to the 2018 Budget Act, DOR established the pilot program, using reimbursement authority and temporary help positions, to work with community-based providers to serve individuals with speech disabilities by providing speech generating software and tablets or similar assistive technology devices. On February 23, 2023, the CPUC closed the proceeding on Rulemaking 13-03-008 and approved the Voice Options Program as a permanent program. Since the pilot program has been successful under the Department’s oversight, the CPUC has requested DOR to continue to administer the Voice Options program to make sure Californians with speech disabilities have access to the speech generating devices they need through partnership with local community-based providers.

Request for DDTP Fund Resources. The four staff will perform the following activities:

- 1.0 Staff Services Manager I – This position will oversee program staff and coordination of the Voice Options program (0.75 FTE) funded by DDTP and Assistive Technology program (0.25 FTE) funded by existing federal funds.
- 2.0 Associate Governmental Program Analysts and 1.0 Staff Services Analyst – Staff will administer agreements with community-based providers, monitoring service activities, program data tracking and outcomes, outreach and marketing, and provide technical assistance to providers.

A Memorandum of Understanding (MOU) between the CPUC and the Department will be executed to facilitate compliance and program oversight.

According to DOR, the department will continue to work in collaboration with the CPUC to report on the following: the number of completed applications received that are accompanied by the necessary certification from authorized professionals attesting to the needs of the applicants; the types of devices purchased and distributed by individual; and the number of devices to those who meet the requirements of this program. In addition, DOR will continue to conduct, collect, refine, and analyze consumer satisfaction and utilization surveys to gauge the effectiveness of the program and identify areas for improvement. Internal controls and a data collection system are in place for monitoring program costs and activities to make sure there is appropriate use of resources and progress towards meeting program goals and reporting accuracy. Data tracked and monitored include equipment and “mobile device apps” purchases, number of recipients of the speech generating devices, recipient demographic data, and customer satisfaction data

DOR states that this proposal will reduce administrative burden in executing an interagency agreement and provide the ongoing staff resources to effectively administer the permanent program for the benefit of Californians with speech disabilities, thereby creating program stability through retention of staff with the expertise and skills necessary to support the program.

Subcommittee Staff Comment and Recommendation – Hold Open. Subcommittee staff notes this proposal uses DDTP funds and has no impact on the General Fund.

Questions. The Subcommittee requests DOR respond to the following:

1. Please provide an overview of this proposal.

PUBLIC COMMENT ON DOR ISSUES 1-2

4300 DEPARTMENT OF DEVELOPMENTAL SERVICES**Issue 1: Department of Developmental Services Overview**

Department of Developmental Services. The Department of Developmental Services (DDS) is responsible for administering the Lanterman Developmental Disabilities Services Act (Lanterman Act). The Lanterman Act provides for the coordination and provision of services and supports to enable people with intellectual and developmental disabilities (IDD) to lead more independent, productive, and integrated lives. Under the Lanterman Act, individuals with IDD are entitled to an array of services and supports sufficiently complete to meet their individual needs and choices, regardless of age or degree of disability, and at each stage of life. Additionally, the Early Start Program provides for the delivery of services to infants and toddlers at risk of a developmental disability.

The department carries out its responsibilities through contracts with 21 community-based, non-profit corporations known as regional centers (RCs), as well as through state-operated homes and facilities. Regional centers are fixed points of contacts for all individuals with IDD. The regional centers coordinate services for each individual with IDD through an Individual Program Plan (IPP), and work with local vendors to purchase the needed services and supports to carry out the IPP.

Governor's Budget. The Governor's budget includes \$15.3 billion (\$10 billion General Fund) for DDS in 2024-25, a net increase of \$1.6 billion (or 11.7 percent) over the updated 2023-24 budget. The majority of the DDS budget, \$14.8 billion (\$9.6 billion General Fund) consists of the Community Services Program, or Regional Center Budget, which includes services paid by the regional center to service providers on behalf of each person with IDD, known as purchase of services. The remaining components of the DDS budget include state-operated facilities, \$348.6 million (\$313.5 million General Fund) and DDS headquarters, \$156.5 million (\$101.1 million General Fund).

- **Budget Solutions.** The Governor's budget includes two budget solutions: delay of service provider rate reform, which is covered in Issue 4 of this agenda, and delay of the Preschool Inclusion Grant Program, which is covered in Issue 6 of this agenda.
- **New Master Plan for Developmental Services.** The Governor's budget also includes the development of a new Master Plan for Developmental Services, which is covered in Issue 2 of this agenda.
- **Fairview Warm Shutdown.** The Governor's budget includes \$11.3 million General Fund to continue the warm shutdown of Fairview Developmental Center. Fairview Developmental Center, located in Orange County, is a state-owned property that closed for general treatment services in February 2020. DDS is responsible for the warm shutdown, which includes the continued maintenance of 60 structures spanning across approximately 114 acres of grounds and infrastructure as the property continues through the disposition process.

In addition to the budget solutions and proposals covered in other issues of this agenda, other adjustments to the DDS budget relate to caseload and utilization updates, as well as the expiration of limited-term funding. The total budget for DDS is included in the table on the following page.

Program Highlights

(Dollars in Thousands)

	FY 2023-24*	FY 2024-25	Difference
Community Services Program			
Regional Centers	\$13,212,140	\$14,809,088	\$1,596,948
Total, Community Services	\$13,212,140	\$14,809,088	\$1,596,948
General Fund	\$7,842,039	\$9,557,907	\$1,715,868
Program Development Fund	\$434	\$434	\$0
Developmental Disabilities Services Account	\$150	\$150	\$0
Federal Trust Fund	\$57,470	\$57,470	\$0
Reimbursements	\$4,459,265	\$5,192,387	\$733,122
Mental Health Services Fund	\$740	\$740	\$0
HCBS ARPA	\$502,237	\$0	(\$502,237)
HCBS ARPA Reimbursements	\$349,805	\$0	(\$349,805)
State Operated Services			
Personal Services	\$260,182	\$284,624	\$24,442
Operating Expense & Equipment	\$66,966	\$63,945	(\$3,021)
Total, State Operated Services	\$327,148	\$348,569	\$21,421
General Fund	\$291,327	\$313,524	\$22,197
Lottery Education Fund	\$100	\$100	\$0
Reimbursements	\$35,721	\$34,945	(\$776)
Headquarters Support			
Personal Services	\$123,686	\$119,602	(\$4,084)
Operating Expense & Equipment	\$51,820	\$36,892	(\$14,928)
Total, Headquarters Support	\$175,506	\$156,494	(\$19,012)
General Fund	\$109,301	\$101,096	(\$8,205)
Federal Trust Fund	\$2,979	\$3,010	\$31
Program Development Fund	\$451	\$452	\$1
Reimbursements	\$53,487	\$51,425	(\$2,062)
Mental Health Services Fund	\$511	\$511	\$0
HCBS ARPA	\$6,523	\$0	(\$6,523)
HCBS ARPA Reimbursements	\$2,254	\$0	(\$2,254)
Total, All Programs	\$13,714,794	\$15,314,151	\$1,599,357
Total Funding			
General Fund	\$8,242,667	\$9,972,527	\$1,729,860
Federal Trust Fund	\$60,449	\$60,480	\$31
Lottery Education Fund	\$100	\$100	\$0
Program Development Fund	\$885	\$886	\$1
Developmental Disabilities Services Account	\$150	\$150	\$0
Reimbursements	\$4,548,473	\$5,278,757	\$730,284
Mental Health Services Fund	\$1,251	\$1,251	\$0
HCBS ARPA	\$508,760	\$0	(\$508,760)
HCBS ARPA Reimbursements	\$352,059	\$0	(\$352,059)
Total, All Funds	\$13,714,794	\$15,314,151	\$1,599,357

*FY 2023-24 includes \$1.3 million Control Section 19.565 funding

*FY 2023-24 does not include \$10.75 million for CPP reappropriation (GF).

Source: DDS

Changes from 2023 Enacted Budget. The department's updated 2023-24 regional center budget includes \$13.2 billion (\$7.8 billion General Fund), a net decrease of \$392.2 million (\$286 million General Fund). This includes a projected decrease of \$392.4 million in purchase of services expenditures and an increase of \$250,000 in operations costs, despite no changes to projected caseload.

Costs and Fund Sources (Dollars in Thousands)			
	Enacted Budget	FY 2023-24	Difference
Operations	\$1,418,703	\$1,418,953	\$250
Purchase of Services	\$12,164,516	\$11,772,089	(\$392,427)
Early Start Part C/Other Agency Costs	\$19,095	\$19,095	\$0
Early Start Family Resource Services	\$2,003	\$2,003	\$0
Total Costs	\$13,604,317	\$13,212,140	(\$392,177)
General Fund (GF)	\$8,128,058	\$7,842,039	(\$286,019)
GF Match	\$4,234,395	\$4,040,954	(\$193,441)
GF Other	\$3,893,663	\$3,801,085	(\$92,578)
Reimbursements	\$4,651,996	\$4,459,265	(\$192,731)
Program Development Fund	\$434	\$434	\$0
Developmental Disabilities Services Account	\$150	\$150	\$0
Mental Health Services Fund	\$740	\$740	\$0
HCBS ARPA	\$451,440	\$502,237	\$50,797
HCBS ARPA Reimbursements	\$314,029	\$349,805	\$35,776
Federal Funds	\$57,470	\$57,470	\$0
Fund Sources	\$13,604,317	\$13,212,140	(\$392,177)

Source: DDS

According to DDS, the decrease of projected purchase of services expenditures from the 2023 Budget Act compared to updated 2023-24 expenditures is attributable to the variability in service utilization as individuals and service providers return from changes during the COVID-19 pandemic.

2024-25 DDS Caseload. DDS projects that regional centers will serve 458,228 individuals in 2024-25. This includes 377,898 active cases, 68,338 Early Start cases (ages 0-3), and 11,992 children who are provisionally eligible (ages 0-4). This is a total caseload increase of 28,775:

Caseload	FY 2023-24	FY 2024-25	Difference
Active (Age 3 & Older)	359,280	377,898	18,618
Early Start (Birth through 35 Months)	61,647	68,338	6,691
Provisional Eligibility (Birth through Age 4)	8,526	11,992	3,466
Total Community Caseload	429,453	458,228	28,775

Source: DDS

Ongoing Oversight Issue: Home and Community-Based Services (HCBS) Final Rule. In 2014, the Centers for Medicare and Medicaid Services (CMS) issued the HCBS Final Rule, which governs the way individuals must be able to interact with their communities in order to receive federal funding for services. Home and community-based services are services and supports that allow an individual to live in their homes and communities rather than in institutional settings, such as residential services, independent and

supported living services, and day programs. Nearly all types of regional center services are eligible to receive federal HCBS funding through Medicaid. The HCBS Final Rule took effect March 17, 2023, and requires that, as a condition of receiving federal HCBS funding, any home and community-based setting meets the following criteria: (1) Is integrated in and supports full access to the greater community; (2) Is selected by the individual from among setting options; (3) Ensures individual rights of privacy, dignity and respect, and freedom from coercion and restraint; (4) Optimizes autonomy and independence in making life choices; and (5) Facilitates choice regarding services and who provides them.

The Final Rule builds off decades of work by the disability rights movement and furthers the goals of the Americans with Disabilities Act (ADA) and the Supreme Court's *Olmstead* decision, holding that community living is a civil right.

States were originally provided a five-year transition period to implement the HCBS criteria, which was delayed multiple times. As of March 17, 2023, all states must be fully compliant with the Rule's basic civil rights requirements and may, through time-limited corrective actions plans (CAPs), have additional time to fully comply with a limited number of requirements in the Rule that were impacted by the COVID-19 public health emergency. California's approved CAP includes additional time to ensure provider compliance with the following HCBS Final Rule Criteria: access to the broader community; opportunities for employment; choice of non-disability specific settings; and option for a private unit and/or choice of roommate. The extension lasts through December 31, 2024, by which all settings that receive federal HCBS funding must be fully compliant with the HCBS Final Rule. The CAP includes interim milestones, including the completion of visits/reviews at 25 percent of settings by February 29, 2024.

As of March 1, 2024, 22 percent of the 8,068 total settings had been reviewed statewide (this consists of regional center staff conducting on-site monitoring of every setting.) Of settings that have been reviewed so far, 80 percent of those settings statewide have been found in compliance. Of the settings reviewed that are not in compliance, 14 settings have a corrective action plan, and 330 settings are receiving technical assistance to come into compliance (meaning they are not in compliance but do not have a formal corrective action plan). The next two milestones are 50 percent reviewed by the end of April and 50 percent compliant by the end of May. All settings must be compliant by the end of September or action will be taken to relocate individuals. Data from DDS shows that while some regional centers, such as Central Valley Regional Center, have already completed over half of the required setting reviews, other regional centers have not completed any reviews.

DDS conducts various activities to support compliance with the HCBS final rule, including issuing a directive to regional centers to complete all on-site monitoring by August 31, 2024, continued training efforts for individuals and families, and providing increased and regular oversight, training, and technical assistance related to the HCBS Final Rule. The 2023 Budget Act included \$1.3 million (\$1.0 million General Fund) ongoing for nine positions beginning in 2023-24 to support DDS's workload associated with efforts to comply with HCBS requirements, including the validation of service provider assessments, remediation, heightened scrutiny of residential and non-residential settings, and updating ongoing monitoring procedures. For regional center HCBS compliance efforts, the 2023 Budget Act included \$4 million (\$2.7 million General Fund) in 2023-24 and \$5.3 million (\$3.6 million General Fund) in 2024-25 and ongoing. The budget additionally includes \$15 million (\$11 million General Fund) annually to support service provider compliance with HCBS requirements.

Ongoing Oversight Issue: Regional Center Caseload Ratios. Service coordinators at each of the 21 regional centers are responsible for developing each person's IPP and coordinating the purchase of their needed services and supports. Statute requires that regional centers maintain certain average caseload ratios, including 1:62 for those enrolled in Medicaid HCBS waiver programs, 1:40 for children ages 0-5, 1:25 for individuals who have complex needs, and 1:66 for all others. In addition, the 2021 Budget Act included \$10 million ongoing to implement service coordinator ratios of 1:40 for those who have a low level or no services purchased by regional centers. The 2023 Budget Act included \$102.1 million (\$68.5 million General Fund) to fund a revised methodology to support the 1:40 caseload ratio for children 0-5. An analysis by the Legislative Analyst's Office (LAO) in 2023 found that as of October 2022, all regional centers significantly exceeded the caseload ratio for children ages 0-5.¹

Changes in the 2023 Budget Act. The 2023 Budget Act included several changes to the DDS budget, including trailer bill language. Some of these changes which are not discussed elsewhere in this agenda include:

- **Independent Living Services:** \$15 million (\$8.5 million General Fund) in 2023-24 and \$60 million (\$34 million General Fund) in 2024-25 to adjust service provider rates for Independent Living Services by January 2024, to align the types of services provided with more equivalent occupations.
- **Parent Participation Requirement in Applied Behavioral Analysis (ABA) or Intensive Behavioral Intervention:** Trailer bill language to prohibit a regional center from denying or delaying the provision of ABA or intensive behavioral intervention services for children due to the lack of parent participation.
- **Autism Services Branch:** \$1 million (\$826,000 General Fund) in 2023-24 and ongoing to establish an Autism Services Branch within the Office of Statewide Clinical Services. DDS reports that five of the six positions have been hired. The Autism Services Branch has established a designated email inbox (autism@dds.ca.gov) and Autism Helpline phone number (833-815-2337). According to DDS, the most frequent types of contacts are inquiries about services for autism, referral and intake at regional centers, or general inquiries about autism. The branch also receives requests for training or data, complaints, communications about individuals in behavioral health crises or with hospital overstay, and communications about services or conferences. The branch is most often contacted by parents, family members, or caregivers. Other types of individuals/groups contacting the helpline include community-based organizations, universities/schools, individuals with disabilities, hospitals, providers, and others. The branch is tracking data on the emails/calls to follow emerging trends and inform the development of resources.
- **Adjusting Rate Models to Reflect Increases in the Minimum Wage:** \$78.2 million (\$46.4 million General Fund) to support the projected minimum wage increase effective January 1, 2024. Trailer bill language allows DDS to uniformly adjust provider rates when the California minimum

¹ The 2023-24 Budget: Department of Developmental Services, Legislative Analyst's Office, February 2023.

wage increases. The 2023 Budget Act also includes \$10.1 million (\$6 million General Fund) to adjust service provider rates for mileage based on updates to the federal Internal Revenue Service mileage rate.

- **Fairview Warm Shutdown:** \$11.3 million General Fund to support the warm shutdown of Fairview Developmental Center.
- **Disparities Data.** \$2.7 million (\$1.8 million General Fund) through 2025-26 and \$450,000 (\$360,000 General Fund) ongoing to implement AB 1957 (Wilson), Chapter 314, Statutes of 2022, which specifies public reporting on IPPs and purchase of services. This includes trailer bill language to specify data deidentification requirements, add a requirement for the department to aggregate purchase of service data on a statewide basis, and establish a collaborative process for stakeholder engagement regarding data de-identification.
- **Protective Proceedings:** \$1.5 million (\$1.2 million General Fund) in 2023- 24 and 2024-25 and \$1.2 million (\$1 million General Fund) beginning in 2025-26 and ongoing, to implement AB 1663 (Maienschein), Chapter 894, Statutes of 2022, which revises various procedures in the conservatorship process.
- **Information Security Office Support:** \$895,000 (\$716,000 General Fund) to support federal and state information technology risk and compliance requirements and the maintenance and operation of the department's security system infrastructure.

Subcommittee Staff Comment and Recommendation – Informational Item. No action is needed.

Questions. The Subcommittee requests DDS respond to the following:

1. Please explain the decrease in purchase of services from the 2023 projections budget to actual expenditures for 2023-24. Could this decrease indicate that individuals are not able to access services they need due to provider capacity or other barriers?
2. Please provide a brief update on the department's efforts to come into compliance with the HCBS Final Rule. How is DDS monitoring those regional centers who are far behind in conducting on-site reviews? What is the consequence for providers that do not come into compliance?

Issue 2: Master Plan for Developmental Services

Panel Discussion. The Subcommittee has invited the following individuals to participate in this discussion:

- Nancy Bargmann, Director of DDS, and Victor Duron, Director of the Master Plan for Developmental Services
- Judy Mark, Parent and President, Disability Voices United
- Miguel Lugo, Self-Advocate, Manager of Community Programs, Integrated Community Collaborative
- Mark Klaus, Executive Director, San Diego Regional Center
- Mark Melanson, Chief Executive Officer, California Community Living Network
- Will Leiner, Managing Attorney, Disability Rights California
- Karina Hendren, Fiscal & Policy Analyst, Legislative Analyst's Office

Announcement of a Master Plan for Developmental Services. The Governor's proposed 2024-25 budget includes the creation of a Master Plan for Developmental Services. On February 14, 2024, California Health and Human Services (CalHHS) Secretary Dr. Mark Ghaly announced the creation of a stakeholder committee to create the Master Plan for Developmental Services. The Stakeholder Committee will be tasked with working with CalHHS and its departments to develop a Master Plan for Developmental Services, to be released by March 2025. According to CalHHS, the Master Plan is designed to serve as California's collective roadmap to marshal the public and private resources of the entire developmental services system, as well as other systems and sectors, to deliver meaningful and concrete results.

According to CalHHS Secretary Dr. Mark Ghaly, "the reality is that the developmental services system cannot, nor should it, operate in isolation given the changing needs of the consumers and families we serve today. This means we must proactively think about how we connect the dots between systems and sectors, while more intentionally integrating developmental services to our work to serve the whole needs of the individual and their families."²

According to DDS Director Nancy Bargmann, "our work together will build on the promise of the Lanterman Act, our current efforts and investments and new thinking from the diverse communities served by our Regional Centers. Our goal is to realize a 21st century developmental services system which is more person-centered, and based on quality, outcomes, and cultural competence."³

CalHHS states that "since 2019, the number of Californians served by the developmental services system has grown by 31 percent, with significant growth among children under the age of 22 who have an Autism diagnosis. Today, over 400,000 Californians receive services and supports through California's 21 Regional Centers. Individuals who receive services today are more diverse and live longer. They face affordable housing shortages, lower rates of employment, and the challenges of accessing services from other systems and sectors to address their physical, social, and behavioral health needs. A 21st century developmental services system must increase its ability to provide culturally responsive services and to

² CalHHS Secretary Dr. Mark Ghaly Announces Stakeholder Committee to Create Master Plan for Developmental Services, CalHHS, February 14, 2024.

³ CalHHS

strengthen the accountability and standardization of the system so that it is easier for individuals and their families to navigate no matter where they live in California.”

Master Plan Stakeholder Committee Membership. The Master Plan Stakeholder Committee, appointed by Secretary Dr. Mark Ghaly, consists of the following members:

- Amy Westling – Association of Regional Center Agencies
- Areva Martin – Family member
- Barry Jardini – California Disability Services Association
- Beth Burt – Family member
- Brett Eisenberg – California Foundation for Independent Living Centers
- Brian Zotti – Options for All
- Cheryl Brown – Commission on Aging
- Claudia Center – Disability Rights Education & Defense Fund
- Dora Contreras – Family member
- Edith Arias – Family member
- Elena Tiffany – Self-advocate
- Eric Ramirez – Self-advocate
- Gloria Wong – East LA Regional Center
- Joe Perales – El Arc de California
- Joyce McNair – Family member
- Judy Mark – Family member
- Kavita Sreedhar – Family member
- Kecia Weller – Self-advocate
- Kelly Kulzer-Reyes – Family member
- Larry Yin – University Center of Excellence in Developmental Disabilities at CHLA
- Lisa Cooley – Self-advocate
- Marie Poulsen - Interagency Coordinating Council on Early Intervention
- Mark Klaus – San Diego Regional Center
- Mark Melanson – California Community Living Network
- Marty Omoto – California Disability Community Action Network
- Norma Ramos – Family member
- Sara Speck – Self-advocate
- Sascha Bittner – Self-advocate
- Season Goodpasture – Family member
- Shella Comin-DuMong – CHANCE Housing
- Sylvia Yeh – Family member
- Tiffany Whiten - SEIU
- Tim Jin – Self-advocate
- Victor Lira – Aveanna Healthcare
- Will Leiner – Disability Rights California
- Yvette Baptiste – Family member

Purpose of the Master Plan for Developmental Services. According to DDS, development of the Master Plan will be a stakeholder-driven process with the stakeholder committee determining what the main focus or focuses will be. Largely, the aim of the Master Plan is to ensure that current services delivered are more equitable, consistent, and accessible by addressing inequities and geographic disparities in both the access to services and payment of services and addressing how consumers and their families ultimately navigate the developmental services system. Since 2019-20 the DDS budget has increased in total funding by 88 percent; this Master Plan aims to utilize these investments to their maximum capacity to deliver results.

Master Plan Process. Starting in April 2024, members of the Master Plan for Developmental Services Stakeholder Committee will participate in regular meetings that will be a combination of virtual and in-person. The Committee will be tasked with working with CalHHS and its departments to develop the Master Plan for Developmental Services by March 2025. The Stakeholder Committee includes 36 individuals comprising family members, self-advocates, providers, system connectors, regional centers, labor, and larger system stakeholders. The Stakeholder Committee will create subgroups on specific areas or topics (such as workforce, quality improvement, equity, financing, and governance) to ensure that a small group of members are able to iterate on pieces of the Master Plan and then bring back to the Stakeholder Committee for review and consideration. These subgroups will bring together additional subject matter experts, community partners, individuals with IDD, and family members to help shape the components of the Master Plan and provide opportunities for deeper and wider engagement. The initial work will be supported by redirecting existing DDS resources currently supporting strategic planning efforts and CalHHS is exploring philanthropic resources for the larger effort.

CalHHS Secretary Dr. Mark Ghaly has named Victor Duron, Chief Deputy Director of the Department of Rehabilitation (DOR), to serve as the Project Director of the Master Plan for Developmental Services. CalHHS has also established a team of subject matter experts, including an expert facilitator for self-advocate engagement, to work with the DDS and CalHHS leadership team on this effort.

Background on the Master Plan for Aging. CalHHS has successfully convened and executed a similar Master Plan effort, known as the Master Plan for Aging (MPA). In June of 2019, Governor Newsom released Executive Order N-14-19, calling for the MPA to serve as a blueprint for state and local government, the private sector, and philanthropy to implement strategies and partnerships that promote prepare the state for the coming demographic changes. Through the Executive Order, the CalHHS Secretary convened a cabinet-level Workgroup with representation across state agencies, as well as a Stakeholder Advisory Committee, including a Research Subcommittee and Long-Term Care Subcommittee. The MPA was established in statute in 2019 through enactment of SB 228 (Jackson) Chapter 742, Statutes of 2019, which, among other provisions, requires the state to submit an annual report to the Legislature each year. Starting in fall 2019, CalHHS and the California Department of Aging (CDA) embarked on a stakeholder engagement and subcommittee process. After stakeholders submitted recommendations to the state, CDA worked with the Cabinet Work Group partners to develop the Master Plan for Aging, informed by those recommendations. Governor Newsom released the MPA in January 2021, with Five Bold Goals including (1) Housing for All Ages and Stages; (2) Health Reimagined; (3) Inclusion and Equity, not Isolation; (4) Caregiving that Works; and (5) Affording Aging. Across the Five Bold Goals, there were 23 strategies and 95 initial initiatives that advance the MPA. Every two years, the administration refreshes the initiatives, based on stakeholder input elevated by the six MPA Stakeholder Advisory Committees. The MPA has guided investments across CalHHS in recent budgets.

Legislative Analyst's Office (LAO) Analysis. The following section include excerpts from the LAO's analysis on the Master Plan:⁴

- *In Concept, Proposal Appears Consistent With Existing Priorities...* DDS is developing and has initiated various efforts intended to address quality, equity, outcomes, and accountability. These efforts include, among others, service provider quality incentive payments, implicit bias training at regional centers, efforts to expand consumers' access to social recreation services, and standardized assessments for respite services. While these efforts have not yet been evaluated for efficacy or efficiency, they are meant to improve the experience of individuals and families receiving developmental services. As such, the proposed Master Plan therefore appears consistent with the department's existing efforts and stated priorities.
- *The Master Planning Process Has Potential Value.* While the Master Plan for Aging is still in the early stages of implementation and evaluation, it nonetheless sheds light on the possibilities for developing a master plan. A master plan can serve to focus and coordinate state efforts in a broad policy area that cuts across multiple state entities, initiated by a process of setting priority goals and developing an implementation plan to achieve the goals. For example, the Master Plan for Aging's five main goals address housing, health, community integration, caregiving, and economic security. The administration has taken various actions to start implementing the Master Plan for Aging, such as investing funds to construct or rehabilitate senior housing facilities through the California Department of Social Services' Community Care Expansion Program, as well as expanding food benefit eligibility for older adults as part of Food4All.
- *Legislature Has Opportunity to Inform the Vision for the Master Plan for Developmental Services.* At the time this analysis was prepared, the administration has not clearly articulated a definitive vision for the Master Plan for Developmental Services. This presents an opportunity for the Legislature to help establish the vision for both the development of the Master Plan and the plan's scope in the context of developmental services more broadly. Should the Legislature wish to proceed with the concept of a Master Plan for Developmental Services, we recommend that the Legislature consider introducing legislation, similar to that introduced for the Master Plan for Aging to ensure that the vision for the Master Plan for Developmental Services reflects legislative priorities. Questions to ask the administration could include: Why is DDS proposing to create a Master Plan now? Is a Master Plan the most appropriate vehicle to achieve the department's goals? Which types of developmental services would the Master Plan affect? How would the department ensure that any programs resulting from the Master Plan are inclusive of the diverse array of individuals served in the developmental services system? How would the Master Plan expand upon the department's existing initiatives to address quality, equity, outcomes, and accountability?

While DDS indicated that it intends to collaborate with other state departments and programs on the Master Plan for Developmental Services, it has not yet released any details on its vision for this type of collaboration. Individuals with intellectual and developmental disabilities often receive services outside of DDS, including those overseen by the California Department of Education, the Department of Rehabilitation, the Department of Health Care Services, and the Department of Social Services. We recommend that the Legislature ask DDS to provide more information about

⁴ The 2024-25 Budget: Department of Developmental Services, Legislative Analyst's Office, February 2023.

its plans for collaboration across state agencies. Questions to ask the administration could include: Which state agencies and departments would be involved in the development and implementation of the Master Plan? How would DDS ensure successful and efficient interagency coordination? Would DDS seek to create a Cabinet Work Group, similar to the group created for the Master Plan for Aging?

- *More Details Needed on Stakeholder Engagement.* While the department stated that it plans to convene a workgroup of stakeholders to inform the development of the Master Plan, it has not released details on the stakeholder engagement process. Chapter 742—concerning the Master Plan for Aging—specified requirements for the solicitation of stakeholder input. The Legislature could consider codifying a similar requirement for the Master Plan for Developmental Services.

Relatedly, stakeholders have voiced the importance of giving a diverse representation of consumers the opportunity to meaningfully engage in the development of the Master Plan. We recommend the Legislature ask DDS to provide more information about its intended outreach to stakeholders and the role that stakeholders would play in developing the Master Plan. Questions to ask the administration could include: Does the department plan to solicit participation from consumers that historically have lower levels of service provision/purchase of service expenditures? How would DDS make the stakeholder process accessible in multiple languages? How would DDS encourage participation of family members that represent a wide range of consumer ages, from Early Start to elderly consumers? How would DDS educate laypeople about the developmental services system so that they are sufficiently empowered to provide meaningful feedback? Would meetings be structured to allow stakeholders sufficient time to voice their concerns and suggestions?

- *Legislature Will Likely Need to Give Fiscal Considerations a Key Focus.* In the context of likely budget deficits through 2027-28, understanding the potential fiscal impacts of the proposed Master Plan would be critical. To understand these potential impacts, the Legislature could ask the administration how it proposes to estimate the implementation costs of the Master Plan and fund any costs above current baselines. The Legislature may want to consider the potential future cost pressures of the administration's proposal as it evaluates the proposal and weighs it against other legislative funding priorities.
- *Proposal Does Not Address Ongoing Legislative Oversight of Plan Implementation.* At the time this analysis was prepared, DDS has not indicated whether the Legislature would have any role in overseeing the ongoing implementation of the Master Plan once it is developed. We note that the Department of Aging is required to submit annual reports to the Legislature on the implementation of the Master Plan for Aging. The Legislature could consider codifying a similar requirement for the Master Plan for Developmental Services. The information from such reporting could assist the Legislature in exercising ongoing oversight through its appropriations authority and review of administration spending plans. The Legislature could also ask DDS to elaborate on its plan to track ongoing implementation. Questions could include: How would DDS plan to define success and track progress under the Master Plan? How would DDS plan to record and analyze data under the Master Plan? What role would stakeholders play in Master Plan implementation? How would the department ensure its goals are sufficiently specific to be tied to measurable outcomes? How would

the department ensure financial transparency in its ongoing implementation tracking and reporting?⁵

Subcommittee Staff Comment and Recommendation – Informational Item. No budget resources are associated with this proposal.

Longstanding concerns about systemic disparities and inequities in the regional center system persist. These inequities have surfaced in the form of spending disparities between ethnic groups, such as disproportionate spending on white individuals compared to Hispanic/Latino individuals; disparities in spending on different types of services across regional centers; inconsistent purchases of services policies across regional centers that impact access to services; and the complicated web of “generic services” from multiple agencies that families must exhaust before a regional center will pay for a service or support. Some of these issues are summarized in Issue 3 of this agenda. Groups such as Disability Rights California,⁶ Disability Voices United,⁷ and the Little Hoover Commission⁸ have analyzed these issues and provided recommendations to improve access to services and oversight of regional centers. By involving not only regional centers and DDS but all systems that serve individuals with IDD, the Master Plan for Developmental Services presents a unique opportunity to address many of the problems and solutions that have been identified, as well as chart a path forward for a more person-centered and equitable system.

Questions. The Subcommittee requests CalHHS and DDS respond to the following:

1. Please provide an overview of the Master Plan for Developmental Services, including the purpose, scope, and timeline.
2. How will CalHHS and DDS engage with a diverse array of individuals with IDD and their families as part of this process?
3. Which state agencies and departments will be involved in the development and implementation of the Master Plan? How will CalHHS and DDS ensure successful and efficient interagency coordination? Would CalHHS seek to create a Cabinet Work Group, similar to the group created for the Master Plan for Aging?

⁵ LAO

⁶ From Navigation to Transformation: Addressing Inequities in California’s Regional Center System Through Community-Led Solutions, Disability Rights California, January 2023.

⁷ A Matter of Race and Place: Racial and Geographic Disparities within California’s Regional Centers Serving Adults with Developmental Disabilities, Disability Voices United, October 2022.

⁸ A System in Distress: Caring for Californians with Developmental Disabilities, Little Hoover Commission, April 2023.

Issue 3: Implementation of Legislative Equity and Oversight Measures from the 2023 Budget Act

Panel Discussion. The Subcommittee has invited the following individuals to participate in this discussion:

- Karina Hendren, Fiscal & Policy Analyst, Legislative Analyst's Office
- Pete Cervinka, Chief of Data Analytics and Strategy, DDS
- Amy Westling, Executive Director, Association of Regional Center Agencies (ARCA)
- Oscar Mercado, Self-Advocate, Member of Integrated Community Collaborative Alianza de Hombres
- Fernando Gomez, Parent and Co-founder, Integrated Community Collaborative

Legislative Equity and Oversight Measures from the 2023 Budget Act. SB 138 (Committee on Budget and Fiscal Review), Chapter 192, Statutes of 2023, included several changes to improve consistency, equity, and oversight in the regional center system. These changes were in response to ongoing equity issues raised by stakeholders and families and analyzed in multiple reports, many of which address themes CalHHS has cited in its desire to develop a Master Plan. The 2023 Budget Act also included \$7.75 million (\$6.2 million General Fund) for DDS to implement the changes included in SB 138. The key components of SB 138 are summarized below:

Legislative Intent for Regional Center Oversight – Welfare and Institutions Code (WIC) 4435

- Expresses legislative intent to advance regional center service provision that is person-centered and more uniform, consistent, and equitable.
- Expresses legislative intent that DDS, consistent with these equity goals, has the authority to oversee and monitor the manner in which regional centers provide services under the Lanterman Act.

Statewide Uniformity and Consistency – WIC 4435.1

- Requires DDS to develop common data definitions to promote access and equity in all regional center services and programs by June 30, 2024.
- Requires DDS to start recording the race and ethnicity and preferred language of each individual at the time of initial intake, assessment, and the IPP meeting following the individual's 18th birthday, by January 1, 2025. Requires this data to be integrated with the department's new case management system.
- Requires DDS to establish standardized processes, including standardized template, for assessing an individual's need for respite services, by June 30, 2025. Requires regional centers to implement the standardized process by January 1, 2026. Requires this process to include obtaining information about respite needs from family members and other caregivers. Requires regional centers to make modifications to their purchase of services policies in order to implement this requirement.

- Requires DDS to establish a standardized IPP by June 30, 2024. Requires the standard IPP template to be integrated with the department's new case management system. Requires regional centers to implement the standardized IPP template and procedures by January 1, 2025.
- Requires DDS to establish standardized vendorization procedures by January 1, 2025. Requires regional centers to implement these procedures and provide updated vendor lists to the department on a quarterly basis, beginning January 1, 2026.
- Requires DDS to establish a standardized intake process by January 1, 2025. Regional centers to report the following information on intake: (1) the number of assessments; and (2) length of time it took to determine eligibility, broken down by various demographic factors including age, race/ethnicity, and preferred language, no later than June 30, 2025.
- Requires DDS to incorporate the following in its new case management system: (1) the number of individuals for whom intake was requested; (2) the outcome of that intake, including whether an assessment was determined to be necessary; (3) the length of time it took to complete the assessment; and (4) the number of notices of action sent regarding the outcome of the initial 15-day intake period.
- Requires DDS to develop all of the standardized processes mentioned above with input from stakeholders including individuals with IDD and families who reflect the demographic diversity of the state, and requires DDS, in developing the standardized processes, to address barriers that may impact access to services.

Reporting on Generic Services and Common Supports – WIC 4435.2

- Requires DDS, with input from stakeholders, including individuals with IDD and their families, relevant state agencies involved in the provision of generic services (including the Department of Education, the Department of Rehabilitation, the Department of Social Services, and the Department of Health Care Services), to report to the Legislature on the following: (1) a definition of generic services; (2) options to improve the coordination of generic services; (3) a description of regional center efforts to coordinate generic services; and (4) identified barriers to accessing generic services, by July 1, 2025.
- Requires DDS to explore the feasibility of including the functionality to track utilization of generic services in its new case management system.
- Requires DDS to evaluate the availability of common services and supports, including inconsistencies in the availability of common services and supports throughout the state, including based on language, and recommendations for addressing those inconsistencies. Requires DDS to provide a status updates on these efforts by January 10, 2025.

Intake Improvements – WIC 4642 (a)(3)

- Beginning January 1, 2025, requires a regional center, by the end of the 15-day intake period, to determine if the individual is eligible or determine if the regional center will initiate an assessment; inform the individual regarding the action; and, in the case a regional center determines an individual is ineligible, provide them or their family with adequate notice.

SB 138 Implementation Update. DDS has provided the following chart summarizing the steps the department is taking to implement the various changes included in SB 138.

SB 138	DELIVERABLES	STATUS February 2024 (\$7.8m, \$6.2m GF)
RACE, ETHNICITY, LANGUAGE DATA WIC 4435.1(b)	<ul style="list-style-type: none"> By 6/30/24 Establish common data definitions By 1/1/25 Regional Centers (RC) start recording at milestones 	DDS has met with diverse stakeholders for input on common data definitions. Next step includes DDS to seek public input through April 2024, on potential updates to data collection. On track to meet deliverable dates.
IPP TEMPLATE AND PROCEDURES WIC 4435.1(d)	<ul style="list-style-type: none"> By 6/30/24 Establish standardized IPP template and procedures By 1/1/25 RC implement procedures 	Workgroup has been evaluating as part of RC Performance Measures initiative. A draft IPP template is being finalized that is inclusive of stakeholder workgroup recommendations. DDS continues to review draft IPP template with self-advocates, families and advocates. On track to meet deliverable dates.
INTAKE PROCESSES WIC 4435.1(f) WIC 4642(a)	<ul style="list-style-type: none"> By 1/1/25 Establish standardized intake process By 1/1/25 RCs determine eligibility and inform individual by 15 days By 6/30/25 RCs report intake data (quarterly) 	DDS has been actively reviewing RC intake process and procedures to identify best practices, to include data standards. DDS is meeting with stakeholders for input. On track to meet deliverable dates.
GENERIC SERVICES EVALUATION WIC 4435.2	<ul style="list-style-type: none"> By 1/10/25 Status update on evaluation By 6/30/25 Provide information to Legislature 	An internal review of generic service requirements and will be meeting with stakeholders for input and recommendations. On track to meet deliverable dates.
RESPIRE ASSESSMENT PROCESSES WIC 4435.1(c)	<ul style="list-style-type: none"> By 6/30/25 Establish standardized process By 1/1/26 RCs implement processes 	DDS is researching practices, to include how other states have approached assessment standardization. Targeting Summer 2024 for stakeholder input and recommendations. On track to meet deliverable dates.

VENDORIZATION PROCEDURES WIC 4435.1 (e)	<ul style="list-style-type: none"> • By 6/30/25 Establish standardized vendorization procedures • By 1/1/26 RCs implement procedures • By 1/1/26 RCs provide updated vendor lists (quarterly) 	Initial efforts to standardizing vendorization includes two service codes (SDP transition and social recreation, camp and non-medical therapy; Establishing a statewide provider directory to serve as a portal and foundation for standardization; DDS continues to work with ARCA and broader community for long term deliverable. On track to meet deliverable dates.
Resources	<ul style="list-style-type: none"> • Allocated initial funding to support SANDIS modifications • Special Consultant joined DDS in February 2024, with additional Special Consultant anticipated by May 2024 • Additional recruitment in progress • Evaluating IT components to support standardization 	\$7m total funds remain for DDS and RC support (including SANDIS). Budgeted funds are available through June 2026.

Background on Disparities in the Regional Center System. Disparities in the provision of developmental services has been a longstanding concern in the regional center system. Existing law requires regional centers to compile and report purchase of services (spending) data broken down by race/ethnicity, age, language, disability detail, and residence type. These data consistently have shown large disparities in the average amounts spent among different groups. In particular, spending for Hispanic/Latino individuals is about half that for white individuals on average. DDS has pointed out that there are many reasons spending data varies – including an individual’s age, and whether they live at home or in a licensed residential setting – and that spending disparities between ethnic groups narrow significantly when controlling for age and type of service.

The core of the Lanterman Act is that individuals receive services and supports that are uniquely tailored to meet their individual needs and reflect their personal choices and preferences. The services and supports that an individual needs may vary widely depending on an individual’s disability, stage of life, preferred living situation, and personal choices. As a result, the dollars spent on each individual’s services, according to their IPP, may also vary widely. Thus, measuring equity solely in terms of dollars spent on groups does not provide comprehensive insight into whether individuals with IDD are receiving the full array of person-centered services and supports they are entitled to receive under the Lanterman Act. It also does not measure the quality of the services provided.

Service Access and Equity Grants. In 2016, the Legislature authorized the Service Access and Equity grant program through ABX2-1 (Thurmond) Chapter 3, Statutes of 2016, which provides \$11 million in ongoing General Fund for DDS to award grants to regional centers and community-based organizations in reducing spending disparities. The 2022 Budget Act temporarily doubled the funding for the Service Access and Equity grant program, adding \$11 million one-time in addition to the \$11 million annually. An independent evaluation of the Service Access and Equity grant program Georgetown University was anticipated from DDS in summer 2023.

Other Efforts to Promote Equity and Reduce Disparities. In addition to the Service Access and Equity grant program, DDS and regional centers are implementing many initiatives designed to promote equitable access to developmental services. Some of these initiatives include: the development of a community navigator program through family resource centers; a language access and cultural competency program at each regional center; implicit bias training, bilingual pay differentials for direct service professionals; establishing a Deaf Access Specialist at each regional center; reforming the fair hearing (appeal) process at regional centers; improving tribal engagement; and developing the Coordinated Family Supports program.

Background on Generic Services. The Lanterman Act requires individuals and families to exhaust “generic resources” before regional centers will purchase a requested service. This means regional centers have to first find out if another state agency is already responsible for meeting a need before the regional center can pay, making the regional center the “payer of last resort.” Some examples of generic resources include healthcare services provided by Medi-Cal, assistance through the In-Home Supportive Services (IHSS) program, which is also a Medi-Cal program, and special education provided by public schools.

Existing law requires that before a regional center can pay for a service, the individual must not only show that they have been formally denied by a different agency, they must then appeal the denial. This was a cost-saving measure introduced during the Great Recession. According to the Association of Regional Center Agencies (ARCA), this appeal requirement “makes it harder to get services, so people – especially in underserved communities – give up, even though they need the service.”⁹

The 2023 Budget Act included trailer bill language - AB 121 (Committee on Budget), Chapter 44, Statutes of 2023- that requires regional centers to purchase medical services identified in the individualized family service plan if the service is not available within 60 days through the family’s health insurance or Medi-Cal, and requires a regional center to purchase medical services during any plan delays, including the appeals process. However, it did not eliminate the appeal requirement.

Disability Rights California Report on Inequities in the Regional Center System. According to a recent report by Disability Rights California (DRC), “our current system places the onus almost entirely on the disabled person or their family to pursue and prove the unavailability of a requested service from a generic resource. DRC’s clients of color consistently cite this bureaucratic process as one of their most significant barriers to accessing services.”¹⁰

DRC also found that “at regional centers, service authorizations are determined through multiple layers of discretionary decision-making, creating many points where inconsistency and unintended bias can creep in. Identifying key decision-making factors or processes that should be standardized across regional centers could serve as a powerful counter. For example, people of color tell DRC that service coordinators often make assumptions about the availability of unpaid family caregiving for those living in multigenerational homes—assumptions that limit services for people who live with family members, who tend to be disproportionately of color and have lower incomes. Standardized rubrics that prompt a more

⁹ Association of Regional Center Agencies.

¹⁰ From Navigation to Transformation: Addressing Inequities in California’s Regional Center System Through Community-Led Solutions, Disability Rights California, January 2023.

comprehensive, nuanced review of family circumstances could help minimize such unintended consequences.”¹¹

Disability Voices United Report on Differences Across Regional Centers. A report published by Disability Voices United (DVU), “A Matter of Race and Place,” outlines the ways in which geographic disparities, in addition to racial/ethnic disparities, can impact access to services for individuals with IDD.¹² This report notes that some regional centers spend more on services than others, regardless of race/ethnicity. For example, DVU found that Westside Regional Center borders Harbor Regional Center (Long Beach/South Bay) with similar demographics. Yet average spending on adults who are living at home is vastly different with a \$16,710 gap between the two neighboring regional centers. DVU further found that the difference between the highest spending (Eastern Los Angeles Regional Center - \$80,792) and the lowest spending (Inland Regional Center- \$14,338) for adults in Supported Living Services is \$66,454.

Little Hoover Commission Report. In April 2023, the Little Hoover Commission published a report calling for urgent action to improve the governance and accountability of the regional center system and “to address longstanding inequities that make it easier for some to access needed services than others.”¹³ Some of the Little Hoover Commission’s recommendations center around: creating more consistency across regional centers, including creating a consistent intake process; creating standard categories to measure racial and ethnic characteristics; improving DDS oversight over the 21 regional centers; evaluating policy differences across regional centers; standardizing vendorization (the process by which regional centers contract with service providers to deliver services); modernizing technology; and improving service coordination.

Subcommittee Staff Comment – Informational Item. The changes included in SB 138 begin to address some of the issues raised in the reports mentioned above, many of which have been elevated in this Subcommittee by individuals with IDD and their families and advocates. The Governor’s Master Plan for Developmental Services could be an opportunity to expand these reforms and further progress towards a more equitable and accessible system for individuals with IDD.

Questions. The Subcommittee requests DDS respond to the following:

1. Please describe the department’s work to date to implement SB 138. How is DDS collaborating with stakeholders, including individuals and families served? What are the department’s next steps for implementation?
2. A final evaluation of the Service Access and Equity grant program was expected summer 2023. What are the key findings of this report? When will this report be available to the Legislature?

¹¹ Disability Rights California.

¹² A Matter of Race and Place: Racial and Geographic Disparities within California’s Regional Centers Serving Adults with Developmental Disabilities, Disability Voices United, October 2022.

¹³ A System in Distress: Caring for Californians with Developmental Disabilities, Little Hoover Commission, April 2023.

Issue 4: Rate Reform Delay

Panel Discussion. The Subcommittee has invited the following individuals to participate in a panel discussion on this item:

- Christopher Odneal, Department of Finance, and Carla Castañeda, DDS
- Wendy Forkas, CEO of Adjoin and President, California Disability Services Association
- Tony Anderson, Associate Director, Association of Regional Center Agencies
- Vivian Haun, Senior Policy Attorney, Disability Rights California
- Jacquie Foss, Board President, California Community Living Network and Director of Public Policy, Strategies to Empower People (STEP)
- Karina Hendren, Fiscal & Policy Analyst, Legislative Analyst's Office

Budget Solution – Governor's Budget. The Governor's budget proposes a one-year delay of the final phase of service provider rate reform. Under the Governor's proposal, the final phase of rate reform, currently scheduled to take effect July 1, 2024, would instead take effect on July 1, 2025. This generates \$1 billion (\$612.5 million General Fund) in savings in 2024-25.

Trailer Bill Language – Governor's Budget. The Governor's budget proposes trailer bill language to implement the proposed delay of service provider rate reform, which is codified in Welfare and Institutions Code (WIC) 4519.10.

Background on Service Provider Rate Reform. In 2016, the Legislature required a rate study to address the sustainability, quality, and transparency of community-based services for individuals with IDD. The development of a new rate study was a response to concerns that existing DDS rates lacked transparency, were overly complex, were not tied to person-centered outcomes, and varied across providers who provide the same service in the same region. DDS, with the help of a consultant, completed the rate study in 2019 and subsequently submitted the study's findings and recommendations to the Legislature. Among other things, the rate study recommended:

- Rate models within each service category.
- Regional differentials to account for regional variance in the cost of living and doing business.
- Enhanced rates for services delivered in other languages, including American Sign Language.
- An option add-on for direct service professional levels and wage differentials based on training and demonstrated competency.
- The consolidation of certain service codes.

The rate study's fiscal impact analysis indicated that full implementation of rate models would cost an additional \$1.8 billion (\$1.1 billion General Fund).

Implementation of Rate Reform. Beginning in the 2021 Budget Act, the Governor and Legislature initiated a five-year plan to phase in rate reform, guided by four goals: consumer experience, equity, quality and outcomes, and system efficiencies. The Legislature required that at full implementation, fully funded models be implemented using two payment components: (1) a base rate equaling 90 percent of the rate model, and (2) a quality incentive payment, equaling up to 10 percent of the rate model, implemented via a new quality incentive program. The quality incentive component of rate reform responds to the prevailing need within the developmental services system of moving from a compliance-based system to an outcomes-based system based on meeting individual needs and person-centered planning.

The rate reform schedule approved in the 2021 Budget Act implemented the first phase of rate reform (equaling 25 percent of the difference between prior rates and the fully funded rate model), and required the fully funded rate models to take effect by July 1, 2025. In response to concerns about severe shortages of direct care staff, the Legislature in the 2022 Budget Act accelerated the rate reform schedule to reach full implementation by July 1, 2024. At the same time, the Legislature required providers to maintain documentation, subject to DDS or regional center audits, that the portion of the 2023 rate increase was used to increase wages, salaries, or benefits of direct care staff. The second 25 percent increase took effect January 1, 2023. The final 50 percent increase, including the quality incentive component, is the final phase of rate reform implementation.

Governor's proposed one-year delay. The Governor's proposal would delay the final phase of rate reform, equaling the final 50 percent of the difference between prior and the fully funded rate models, and inclusive of the 10 percent quality incentive component, from July 1, 2024 to July 1, 2025.

Quality Incentive Program (QIP). Funding for the QIP has been established in the annual Budget Act as an approximate percentage of the funding included for rate reform implementation increments. At full implementation, WIC 4519.10 allows up to 10 percent of the fully funded rate model to be used for the QIP. Until full implementation, QIP incentive payments are funded separately from rate adjustments. The Governor's proposed 2024-25 budget includes \$137.5 (\$82.5 million General Fund) for the QIP.

To develop quality measures for the QIP, which will constitute the 10 percent quality incentive component of the fully funded rate models, DDS formed a QIP Workgroup and has been phasing in quality measures and incentives for various provider categories beginning in 2022-23. Existing focus areas with defined quality measures include: workforce capacity and service access; employment access; employment capacity; and prevention and wellness. Additional measures for informed choice and satisfaction, early intervention, and employment satisfaction, are underway. For example, under the prevention and wellness measure, a residential care provider may receive an incentive payment for demonstrating that individuals are receiving certain preventative health services. Some of the existing measures are foundational; for example, the workforce capacity incentive is based on completion of a survey assessing workforce retention and capacity.

WIC 4519.10 allows measures and benchmarks in the initial years of the QIP to focus on building capacity, developing reporting systems, gathering baseline data, and similar activities, while working towards meaningful outcome measures at the individual level for all services. By 2025-26, the QIP must include measures at the individual level. This ramp-up time for the QIP to include more individualized outcome measures recognizes that DDS must first develop the infrastructure to allow for the collection and submission of data and information that reflects individual outcomes. DDS has shared that in order to

meet the statutory July 1, 2024 date by which every service provider must have an available quality incentive, DDS will launch a voluntary “service provider directory” which requires the submission of provider information into a centralized DDS system. While this service provider directory does not meet the ultimate goals of measuring service quality and transforming to an outcomes-based system, it is a step to create the infrastructure to do eventually meet these goals.

DDS is on a dual track with two implementation scenarios. Because existing law requires DDS to implement the fully funded rate model by July 1, 2024 (including the 10 percent quality incentive component), DDS is moving forward with seeking the necessary federal approvals for reimbursement under the Home and Community-Based Services (HCBS) waiver. Should the Legislature approve the Governor’s proposed one-year delay, DDS would rescind the posted HCBS waiver amendment. For the year that the Governor proposes delaying full implementation, the state would forgo \$408 million in federal reimbursements.

LAO Analysis. The following is an excerpt from the LAO’s analysis of the 2024-25 DDS Budget:¹⁴

- *Proposal Would Help Address the State Budget Problem...* The \$612.5 million decrease in General Fund spending for rate reform implementation would help the state address its budget deficit in 2024-25. (There are proposed budget solutions across many other programs as well. Our recent publication, *The 2024-25 Budget: Overview of the Governor’s Budget*, provides more information on the state’s budget problem and the overall package of proposed budget solutions.) The delay would mean the rate model implementation would remain roughly half-way implemented in 2024-25.
- *...But Could Delay Addressing Direct Care Staff Workforce Shortages.* We have heard concerns from stakeholders that the challenges faced by providers in hiring an adequate number of direct care staff, which helped initiate rate reform acceleration in 2022-23, have not yet been fully overcome. Providers indicate that a continuing shortage of direct care staff could delay service provision to DDS consumers, as providers might have to decline referrals from regional centers due to lack of available staff. Consumers might therefore need to wait longer before a provider can begin to serve them. Additionally, a continuing shortage of direct care staff could disrupt service continuity for those consumers who are successfully referred to a provider due to staff scheduling challenges. We note that DDS has recently adopted workforce initiatives that could improve workforce stability in the longer run, such as bilingual pay differentials and Direct Service Professionals University (a training and certification program tied to wage differentials for direct care staff). However, as these efforts are still in the early stages of implementation or not yet fully implemented, they are unlikely to address providers’ immediate workforce needs in 2024-25.
- *Consider Whether Alternative Approaches Are Warranted.* While the proposal would help address the state budget problem, it involves trade-offs. Specifically, some DDS consumers may not receive services as quickly as could be possible were the full rate reform implemented in 2024-25. Rejecting the administration’s proposal, however, requires dollar-for-dollar reductions in other areas of the budget. Alternatively, the Legislature could consider a scaled-back budget solution that allows some level of funding for the final phase of rate reform in 2024-25 while reducing the

¹⁴ The 2024-25 Budget: Department of Developmental Services, Legislative Analyst’s Office, February 2023.

adverse impacts associated with the proposed solution. For example, such a scaled-back approach could target select service provider codes where the workforce shortages are most acute. This approach would require collaboration with the administration and stakeholders. Additionally, it would still require alternative budget solutions in other areas of the budget (although of a lesser dollar amount than would be required if the administration's proposal were rejected completely). We note that delaying the final phase of rate reform is only a one-year budget solution. That is, the ongoing costs of the final phase of rate reform are reflected in the administration's multiyear estimates beginning in 2025-26 (when the state continues to face budget deficits).

HCBS Spending Plan. The Home- and Community-Based Services (HCBS) Spending Plan, which is funded by federal the American Rescue Plan Act of 2021 (ARPA), includes \$1.8 billion (\$1 billion HCBS ARPA, \$789.7 million Reimbursement) for rate reform implementation over the three years of the HCBS Spending Plan. The Governor's updated 2023-24 budget includes a total of \$1.2 billion for rate reform, of which \$225.7 million is General Fund, and the other funds are federal HCBS ARPA and reimbursements. HCBS ARPA and reimbursements fund the costs of service provider rate reform for approximately the first three quarters of fiscal year 2023-24, after which the HCBS funding dedicated to rate reform will be exhausted and General Fund will pick up the costs. In the Governor's proposed 2024-25 budget (which includes the one-year delay of the final phase of rate reform), service provider rate reform includes a larger share of General Fund (\$729.9 million) due to the expiration of federal HCBS funding. A breakdown of the HCBS ARPA, General Fund, and reimbursement components of Rate Reform is included below. A summary of all DDS components of the HCBS Spending Plan is included in Issue 9 of this agenda.

FY 2023-24	<u>Enacted Budget</u>	<u>FY 2023-24</u>	<u>Difference</u>
TOTAL	\$1,200,413	\$1,200,413	\$0
HCBS ARPA	\$441,381	\$496,499	\$55,118
HCBS ARPA Reimbursements	\$292,844	\$329,233	\$36,389
GF	\$280,058	\$225,655	(\$54,403)
Reimbursements	\$186,130	\$149,026	(\$37,104)

FY 2024-25	<u>FY 2023-24</u>	<u>FY 2024-25</u>	<u>Difference</u>
TOTAL	\$1,200,413	\$1,215,414	\$15,001
HCBS ARPA	\$496,499	\$0	(\$496,499)
HCBS ARPA Reimbursements	\$329,233	\$0	(\$329,233)
GF	\$225,655	\$729,880	\$504,225
Reimbursements	\$149,026	\$485,534	\$336,508

Source: DDS

Stakeholder Concerns. A broad coalition of organizations representing individuals with IDD and families, regional centers, service providers, labor, and advocates is opposed to the Governor's proposed rate reform delay, expressing the impact this delay will have on access, equity, and quality for services to individuals with IDD.

Subcommittee Staff Comment and Recommendation – Hold Open.

Questions. The Subcommittee requests DDS and Department of Finance (DOF) respond to the following:

1. Please provide an overview of this proposed budget solution and the Administration's rationale.
2. What impact might the Governor's proposed delay have on workforce capacity and access to services for individuals with IDD?
3. How will this proposed delay impact the shift to an outcomes-based system envisioned under rate reform? Please include a discussion of: (1) how the Quality Incentive Program would function with and without the Governor's proposed delay; and (2) the department's plans to move beyond the service provider directory and towards measuring individual outcomes as the Quality Incentive Program develops.

Issue 5: Individual Program Plan Meetings

Panel Discussion. The Subcommittee has invited the following individuals to participate in a panel discussion on this item:

- Nancy Bargmann, Director of DDS
- Rose Frihart, Attorney, Children’s Law Center of California

Trailer Bill Language – Governor’s Budget. The Governor’s budget includes trailer bill language that does not extend the temporary option for an Individual Program Plan (IPP) meeting to be held remotely. Instead, this proposed trailer bill recasts legislative intent to (1) express the value of developing a collaborative relationship between individuals with IDD and their families and their service coordinators; (2) emphasize the benefit of face-to-face contact, and (3) prioritize IPP meetings that are held at locations and times that are convenient for the individual and family served, and allow individuals to invite authorized representatives, supporters, and advocates, as appropriate.

Background on Individual Program Plan (IPP) Meetings. Individuals with IDD who are served by regional centers receive services according to an IPP. An IPP is a plan for services and supports developed according to the needs and personal choices of the individual. The IPP is required to prioritize the services and supports that allow children to live with their families and adults to live in the community as independently as possible.

WIC 4646 outlines the intent and process of developing IPPs. These planning efforts are a series of interactions among a planning team including the individual with IDD, their family (as applicable) or other authorized representative, regional center representative(s), and others as invited by the individual with IDD or family, as appropriate. IPPs must be reviewed and modified by the planning team at least once every three years. In addition, individuals with IDD or their parents or representative have the right to request an IPP meeting at any time and have the meeting held within 30 days, or seven days under certain circumstances.

Flexibility for remote IPP meetings during COVID-19. In March 2020, in response to the COVID-19 Pandemic, DDS waived requirements for in-person IPP meetings through department directive. The Legislature extended the flexibility for individuals and families to hold remote IPP meetings through June 30, 2024, in trailer bill language included in AB 121 (Committee on Budget), Chapter 44, Statutes of 2023. The option for the remote meeting is an option for the individual and their family, at their preference.

Trailer Bill Language would end flexibility for remote IPP meetings. The Governor’s proposed trailer bill language does not extend the current remote flexibility for IPP meetings, which expires on June 30, 2024. Instead, the proposed trailer bill recasts legislative intent language regarding IPP meetings, as follows:

1. Recasts existing legislative intent language to state that IPPs should be developed using a person-centered approach that reflects the needs and preferences of the individual with IDD and, as appropriate, their family. The services and supports provided by the regional center should assist each individual with IDD to achieve their personal outcomes and life goals and promote inclusion in their community.

2. Adds intent language stating that the Legislature acknowledges the value of developing a collaborative relationship between individuals with IDD and, as appropriate, their parent, legal guardian, conservator, or authorized representative and service coordinators, and that face-to-face contact helps increase communication and foster more understanding and build relationships.
3. Adds legislative intent language stating that the Legislature places a priority on in-person IPP meetings that are held at a location and at times that are convenient for the individual with IDD and, as appropriate, their parent, legal guardian, conservator, or authorized representative and include a supporter or advocate if invited by the individual with IDD, and, as appropriate, their parent, legal guardian, conservator, or authorized representative.

According to DDS, “the priority should be placed on face-to-face contact and in-person interaction. The face-to-face contact should be at a time and location preferred by the individual, or, if appropriate, their parents, legal guardian, conservator, or authorized representative. Further, the language recognizes the value of, and makes an allowance for having supporters or advocates participate in IPP meetings at the invitation of consumers.”

Stakeholder Concerns. Several stakeholders and advocates representing individuals with IDD and their families have raised concerns about the Administration’s proposal to end the option for remote IPP meetings. According to Disability Rights California, “since its codification in 2020, the option to have IPP meetings remotely upon request has not only helped hundreds of thousands of people have IPP meetings safely during the COVID-19 public health emergency, it has increased individuals’ ability to include their chosen loved ones, supporters, providers or advocates, and to overcome access barriers such as distance, transportation, childcare needs, or difficulty taking time off work...without new statutory language that explicitly preserves this option or at least identifies circumstances when remote meetings would be appropriate, people with IDD may be required to have their IPPs in person even when it does not meet their needs or makes the full or timely engagement of key participants infeasible.”

Disability Rights California also states that the end of this flexibility could pose additional issues when coordination across agencies is necessary, such as for children involved in the child welfare system or juvenile justice systems, or those with dually diagnosed behavioral health issues.

Subcommittee Staff Comment and Recommendation – Hold Open. Subcommittee staff notes substantial opposition to this proposed trailer bill language from individuals who represent people with IDD and their families. Being able to observe an individual in person in their home environment may facilitate a more complete understanding of what that individual’s service needs are. At the same time, any outcome on this issue should prioritize the preferences of the individual with IDD and their family - especially in light of the HCBS Final Rule which requires person-centered planning to be driven and directed by the individual.¹⁵ It is also critical to understand the impact on children involved in multiple systems, such as youth housed in juvenile justice facilities and children involved in the child welfare system. For children involved in the child welfare system, for example, a child may not be living with the person who holds their developmental services rights and is authorized to consent to services on behalf of

¹⁵ Home and Community-Based Services Final Rule Fact Sheet, DDS.

the child. It may also be necessary to involve the child's attorney, social worker, or other family members in the IPP meeting, for whom attending in-person may not be a practical option.

Questions. The Subcommittee requests DDS respond to the following:

1. Please provide an overview of this proposal.
2. How often and under what circumstances do service coordinators meet with individuals in person? What other situations enable the building of relationships between the regional center and the individual with IDD and their family?

PUBLIC COMMENT ON DDS ISSUES 1-5

Issue 6: Preschool Inclusion Grants Delay

Budget Solution – Governor’s Budget. The Governor’s budget proposes to delay the Preschool Inclusion Grant program from 2024-25 to 2026-27.

Preschool Inclusion Grants. The 2022 Budget Act included \$20 million General Fund over two years for DDS to issue grants to enable preschool programs to include more children with exceptional needs.

The 2023 Budget Act approved a delay of this two-year program until 2024-25. The Governor’s proposed budget for 2024-25 includes a second, two-year delay of this program until 2026-27. This proposed delay would generate \$10 million General Fund savings in 2024-25 and an additional \$10 million General Fund savings in 2025-26.

Subcommittee Staff Comment and Recommendation – Hold Open.

Questions. The Subcommittee requests DDS respond to the following question:

1. Please provide an overview of this proposal.

Issue 7: Self-Determination Program Participant Choice Specialists

Expiration of Limited-term Funding – Governor’s Budget. The Governor’s budget includes the expiration of limited-term funding which supports Participant Choice Specialists who assist individuals in the Self-Determination Program at regional centers. The expiration of limited-term funding equates to a decrease of \$7.2 million (\$4.8 million General Fund) in 2024-25.

Background on the Self-Determination Program (SDP). The SDP is an optional alternative to the traditional method of service delivery through regional centers. The SDP provides individuals served by regional centers and their families with more flexibility, responsibility, and choice in the services and supports they receive. Individuals who participate in SDP are provided with an individual budget, which is determined by the IPP team and is based upon the amount of services purchased by the regional center for the individual in the most recent 12 months. Individuals who participate in the SDP then develop a spending plan to implement the services and supports identified in the IPP. Unlike the traditional model, the SDP spending plan can include services and supports provided by providers who are not vendors of the regional center. Participants in SDP must use a Financial Management Services (FMS) provider which pays all providers, including employees hired by the participant, directly.

The SDP was created out of SB 468 (Emmerson), Chapter 683, Statutes of 2013, and originally began as a pilot program limited to 2,500 individuals. The Center for Medicare and Medicaid Services approved the state’s request to renew federal funding for a five-year period effective July 1, 2021. The SDP program became available to everyone on July 1, 2021. From July 1, 2018 through December 31, 2023, 3,807 individuals participated in the SDP.

Participant Choice Specialists. Participant Choice Specialists were identified to support the transition of the SDP to a statewide program. Participant Choice Specialists are intended to be subject matter experts in SDP, dedicated to supporting regional center service coordinators, individuals with IDD, and families with timely transitions to SDP and building institutional knowledge about SDP at regional centers. Over the three years of limited term funding, regional centers received \$7.2 million (\$4.8 million General Fund) each year for these positions. 2023-24 is the last year this funding is available under the original appropriation.

According to DDS, regional centers may use existing funds to support individuals and families to transition to SDP after the limited-term funding expires at the end of 2023-24. DDS also notes that the department has initiated other efforts to support individuals in transitioning to the SDP, such as a new “transition support” service code for up to 40 hours of general enrollment support. DDS also will be adding incentive funding under the Regional Center Performance Measures to support SDP efforts, which regional centers could use to support Participant Choice Specialists.

Stakeholder Concerns. According to Disability Voices United (DVU), “Participant Choice Specialists are a critical component of the ongoing implementation of the [SDP], which already faces significant barriers and bureaucracy, particularly for people of color. Removing these positions could lead to increased disparities and reduced participation in the program...we have observed, and heard numerous accounts from participants and family members that the specialists play a critical role in moving each SDP enrollment through the bureaucratic processes...the elimination of these positions has the potential to grind the SDP to a complete halt.”

Subcommittee Staff Comment and Recommendation – Hold Open. While the Governor’s budget includes a funding reduction for Participant Choice Specialists, this reduction is not considered a budget solution because the appropriation was limited term. Nonetheless, the Legislature may wish to consider any harmful impacts the expiration of this funding may have on individuals who are enrolled in, or wish to enroll in, the SDP.

Questions. The Subcommittee requests DDS respond to the following:

1. Please provide an overview of the funding for Participant Choice Specialists. What is the anticipated impact of this funding expiring?
2. Does DDS anticipate the expiration of this funding will have an impact on participants or new enrollments in the Self-Determination Program?
3. How does SDP enrollment vary across regional centers, and how does DDS oversee regional centers in assisting individuals with enrolling in SDP? What lessons has the department learned from regional centers who have enrolled more participants?

Issue 8: Regional Center Family Fees

Trailer Bill Language – Governor’s Budget. The Governor’s budget proposes trailer bill language to repeal the Family Cost Participation Program and Annual Family Program Fee, effective July 1, 2024.

Background on Regional Center Family Fees. While services under the Lanterman Act are an entitlement for eligible individuals, some families whose children receive specific services are required to pay fees to cover a cost of those services. Prior to COVID-19, three separate fee programs existed, all of which were temporarily suspended due to the pandemic:

- **Family Cost Participation Program (FCCP):** The FCCP requires regional centers to assess a cost share on parents of any child age 17 or younger authorized to receive respite, day care and/or camping services. It does not apply if children are on Medi-Cal or if family income is below 400 percent of the Federal Poverty Level. This fee is outlined in WIC 4783 and is currently suspended.
- **Annual Family Program Fee (AFPF):** The AFPF requires regional centers to assess an annual fee to parents of children age 17 or younger when the child or family receives any services beyond eligibility determination, needs assessment, and service coordination. It does not apply if children are on Medi-Cal, if family income is below 400 percent of the Federal Poverty Level, or if the child receives only respite, day care or camping services from the regional center, for which the family pays a fee under the FCCP. This program is outlined in WIC 4785 and is currently suspended.
- **Parental Fee Program (PFP).** The PFP requires DDS to assess a monthly fee to parents of children under 18 if the child is receiving 24-hour out-of-home services. The fee is assessed monthly to parents with annual gross income at or above 201 percent of the current Federal Poverty Level, and is based on a percentage of income, ranging from three to six percent of the family’s income.

Fees collected from the AFPF and PFP are deposited into the Developmental Disabilities Program Development Fund (PDF) and can be expended as prescribed by statute to support new programs, expand existing ones, or offset existing General Fund costs. The FCCP is a cost share, not a fee, and is determined by the regional center when eligible services are authorized.

Proposal to Repeal FCCP and AFPF. This trailer bill language proposes to repeal the FCCP and the AFPF, based on a DDS evaluation of these programs while they were suspended.

According to DDS, regional centers have reported that FCCP is the most complex to administer, hard to explain to families, and because of the complexities, resulted in a low rate of participation. Although intended to achieve cost avoidance, the actual fiscal impact is indeterminate. DDS also notes that AFPF is characterized by variations in program administration and varying degrees of program compliance. Although historical AFPF revenues have ranged from approximately \$900,000 to \$1.3 million from 2014-15 to 2018-19, the actual costs associated with regional center administration is unknown.

Further, according to DDS, both programs may create distrust of regional centers, impacting parent/service coordinator relationships. Repealing these fee programs will improve consistency and assist

in maintaining regional center core functions surrounding assessment, service coordination, and provision of services. The fiscal impact related to repeal of the FCPP is indeterminate. Repeal of the AFPF would result in a slight PDF fund revenue decrease in 2024-25, which would represent phased-in revenues following the restart of the program. Loss of revenues may partially be offset by reduced regional center workload. DDS does not seek any General Fund augmentation resulting from these repeals.

Subcommittee Staff Comment and Recommendation – Hold Open.

Questions. The Subcommittee requests DDS respond to the following:

1. Please provide an overview of this proposal.

Issue 9: DDS Items in Home and Community-Based Services (HCBS) Spending Plan

Governor’s Budget. The Governor’s proposed budget includes some shifts of funding among DDS initiatives under the HCBS Spending Plan, but total HCBS ARPA funding remains unchanged from the 2023 Budget Act.

Background on the HCBS Spending Plan. As a part of the 2021 Budget Act, the state was required to submit a package of home- and community-based services (HCBS) enhancements—known as the HCBS spending plan—to the federal government as a condition of drawing down additional federal funds resulting from a temporary 10 percentage point increase to the federal Medicaid match rate. California’s plan included \$3 billion in HCBS enhancements (which matched by an additional \$1.6 billion in standard Medicaid funds, totaling \$4.6 billion). The 2021 Budget Act included control section language that allows the administration to allocate and expend funds to implement the HCBS enhancements through the annual budget process or written midyear notifications to the Legislature. The Department of Health Care Services (DHCS) is the lead state agency on the plan, which spans 26 initiatives across six departments under the California Health and Human Services Agency. This issue is limited to the HCBS-funded programs administered by DDS.

DDS Programs under the HCBS Spending Plan. The HCBS Spending Plan includes six DDS programs. The table below shows the funding allocated pursuant to the HCBS Spending plan for each item, and the total funds spent per the latest update from the Department of Finance. This data reflects actual expenditures over the multi-year spending period as of September 2023; therefore it is likely an underestimate of actual expenditures to date.

DDS HCBS Program	Total HCBS Funding (Governor’s Budget)	Actual Expenditures (September 2023)
Social Recreation	\$14.7 million	\$14.7 million
Language Access and Cultural Competency	\$41.6 million	\$37.5 million
Rate Reform Implementation	\$1.8 billion	\$1.3 billion
Modernize Regional Center IT Systems	\$7.5 million	\$5.8 million
Coordinated Family Supports	\$18 million	\$9 million
Enhanced Community Integrations for Children and Adults	\$12.5 million	\$12.5 million

- **Social recreation and camping (\$14.7 million).** This program funds regional centers purchase of services for a number of services that were suspended during the Great Recession and restored in 2021: social recreation, camping, educational services for children 3-17, and nonmedical therapies such as specialized recreation, art, dance and music. This reflects the decrease in the Governor’s proposed 2024-25 budget, not the original \$121 million included in earlier versions of the HCBS Spending Plan.
- **Language access and cultural competency (\$41.6 million).** This program funds language access and cultural competency orientations and translations for individuals served by Regional Centers and their families, including: identification of vital documents for translation, regular and periodic language needs assessments to determine threshold languages, coordination and streamlining of

interpretation and translation services, and implementation of quality control measures to ensure the quality of translations. All 21 regional centers have created comprehensive plans reflecting their data of languages, ethnicities and cultures to better support language/cultural needs of individuals/families served.

- **Rate Reform (\$1.8 billion).** This represents the vast majority of HCBS funding for DDS. Service Provider Rate Reform is covered in Issue 4 of this agenda.
- **Modernize Regional Center IT Systems (\$7.5 million).** This investment supports the initial planning process to update the regional center Uniform Fiscal System (UFS) and implement a statewide Consumer Electronic Records Management System (CERMS).
- **Coordinated Family Supports (\$18 million).** Coordinated Family Supports is a pilot program designed for adults who are 18 years and older who choose to live in their family homes. Currently, adults living outside the family home have more coordinated supports than individuals living with their families. As of December 31, 2024, there were 38 unique service providers delivering Coordinated Family Support services to 192 individuals. There is no funding for Coordinated Family Supports to continue in 2024-25 but DDS has not announced an end date for this pilot.
- **Enhanced Community Integrations for Children and Adults (\$12.5 million).** This is a grant program to fund projects that will enhance and develop integrated and inclusive social and recreational programs for children and adolescents with IDD in diverse communities.

HCBS Spending Plan Timeline. The 2023 Budget Act included an extension of the HCBS Spending Plan period through December 31, 2024. The Governor's Budget estimates that all DDS HCBS Fund/Reimbursement funding will be expended by the end of 2023-24 (with liquidation continuing through December 2024).

Changes to HCBS Spending Plan. The Governor's proposed 2024-25 budget includes several multi-year changes to DDS items within the HCBS Spending Plan, although total HCBS ARPA funding remains unchanged. The changes include a significant decrease in social recreation based on actual costs and utilization, in addition to several minor changes to reflect revised reimbursement assumptions. HCBS Expenditures for Rate Reform implementation increase in 2023-24 as \$45.9 million in total HCBS funding is redirected from social recreation.

Subcommittee Staff Comment and Recommendation – Informational Item. No action is needed.

Questions. The Subcommittee requests DDS respond to the following:

1. Please explain the redirection of social recreation funds to rate reform implementation. Is DDS on track to spend remaining HCBS funding by December 31, 2024?

Issue 10: Probability Sampling and Statistical Extrapolation

Trailer Bill Language – Governor’s Budget. The Governor’s budget proposes trailer bill language to allow DDS and regional centers to use probability sampling and statistical extrapolation when conducting fiscal audits of service providers.

Background on DDS Audits. Pursuant to WIC 4648.1, DDS is authorized to exercise oversight responsibilities through the audit of service providers. Either DDS or a regional center may recover from a provider funds paid for services when either determines that the services were not provided in accordance with the regional center’s contract or authorization with the provider, or with applicable state laws or regulations, and/or the rate paid is based on inaccurate data submitted by the provider on a provider cost statement. Currently, DDS auditors typically choose two months in the most recently completed fiscal year and examine all claims for services provided during those months. If material audit overpayments are found in the sample months, extensive audit staff time is required to extend the testing to the full year (or longer) to recapture more significant overpayments.

With approximately 80 percent of individuals served through DDS eligible for Medi-Cal, audits include Medi-Cal providers, and expenditures reimbursed by the federal Home and Community Based Services Waiver and State Plan Amendments (SPAs). DDS is a legally delegated extension of the Department of Health Care Services (DHCS) audit program covering Medi-Cal providers, pursuant to WIC 4406. The department maintains accountability for all Waiver and SPA-related financial transactions through audits of service providers.

More Efficient Method for Expanding Audit Coverage. As part of its oversight work, DDS has recently employed the use of limited scope audits. These types of audits allow for increased efficiencies in DDS audit processes and are less time-intensive than full scope audits for both DDS staff and service providers. Based on limited scope audit findings, audits can become full scope audits for more detailed review and testing.

DDS proposes to use extrapolation to expand audit coverage in high-risk service areas and only for full scope audits. DDS may use statistical sampling to project the amount of overpayment to service providers when significant levels of erroneous billing are suspected and when the costs of reviewing all individual purchase of service claims of a service provider record for long periods is not administratively feasible or practical. Extrapolation would be used when a statistically valid method of probability sample testing results in a significant error rate. The proposed statutory changes are based on DHCS regulatory authority for statistical extrapolation (California Code of Regulations, title 22, section 51458.2.). Extrapolation is permitted by the Centers for Medicare & Medicaid audit guidelines and professional audit standards.

Before the extrapolation method is applied, several factors will be considered, including: the cause of the errors rate, how long the pattern of erroneous billing is believed to have existed, evidence or likelihood of fraud, total number of payment claims submitted and associated dollar amounts, and service provider good faith efforts to address the error rate.

According to DDS, the authorization to use extrapolation will provide for more efficient use of audit resources and increase oversight through the number of service providers audited each year; increase

timely and successful recovery of audit overpayments, and align DDS's service provider audit processes with DHCS's audit of Medicaid providers.

Subcommittee Staff Comment and Recommendation – Hold Open.

Questions. The Subcommittee requests DDS respond to the following:

1. Please provide an overview of this proposal.

PUBLIC COMMENT ON DDS ISSUES 6-10
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