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Thursday, March 16, 2017
9:30 a.m. or upon adjournment of session
State Capitol - Room 4203

Part B

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4300 DEPARTMENT OF DEVELOPMENTAL SERVICES**PANEL 1: OVERVIEW AND HEADQUARTERS - ISSUES 1-5****Nancy Bargmann, Department of Developmental Services****Kris Cook, Department of Finance****Sonja Petek, Legislative Analyst's Office****ISSUE 1: Budget Overview**

Background: The Department of Developmental Services (DDS) oversees the provision of services and supports to over 300,000 persons with developmental disabilities and their families, pursuant to the provisions of the Lanterman Developmental Disabilities Services Act, also known as the Lanterman Act, (Division 4.5 of the California Welfare and Institutions Code). The Lanterman Act establishes an entitlement to services and supports for Californians with developmental disabilities.

For the majority of eligible recipients, services and supports are coordinated through 21 private, non-profit corporations, known as regional centers. The remaining recipients are served in three state-operated institutions, known as developmental centers and one state-leased and state-operated community-based facility.

Eligibility. To be eligible for services and supports through a regional center or in a state-operated facility, regardless of income, a person must have a disability that originates before their 18th birthday, be expected to continue indefinitely, and present a substantial disability. As defined in Section 4512 of the Welfare and Institutions Code, this includes an intellectual disability, cerebral palsy, epilepsy, and autism, as well as conditions found to be closely related to intellectual disability or that require treatment similar to that required for individuals with an intellectual disability. A person with a disability that is solely physical in nature is not eligible. Infants and toddlers (age 0 to 36 months), who are at risk of having a developmental disability or who have a developmental delay, may also qualify for services and supports. Eligibility is established through diagnosis and assessment performed by regional centers.

Budget Summary. The department's budget proposes expenditures of \$6.9 billion (\$4.2 billion General Fund) in 2017-18, a net increase of 4.2 percent (6.1 percent General Fund increase) over the updated current year budget. See table below for more information.

Regional centers are anticipated to serve 304,294 individuals in the current year, and 318,043 individuals in the budget year, an increase of 4.81 percent over the enacted budget. It is estimated that developmental centers will house 760 residents by the end of 2016-17 and 490 residents by the end of 2017-18, a reduction of 10.27 percent.

Department of Developmental Services Funding Summary

	2016-17 ¹	2017-17	Difference	Percent Change
Community Services	\$6,064,913	\$6,423,741	\$358,828	5.9%
Developmental Centers	529,869	449,796	-80,073	-15.1%
Headquarter Support	51,188	52,302	1,114	2.2%
Total	\$6,645,970	\$6,925,839	\$279,869	4.2%
General Fund				
Community Services	\$3,558,448	\$3,838,894	\$280,446	7.9%
Developmental Centers	368,523	329,985	-38,538	-10.5%
Headquarter Support	33,834	34,720	886	2.6%
Total	\$3,960,805	\$4,203,599	\$242,794	6.1%

Budget proposals, not discussed further in the agenda, include:

- 1. Headquarters.** The budget includes an increase of \$0.5 million (\$0.4 million General Fund) in the current year and an increase of \$1.6 million (\$1.3 million General Fund) in the budget year for retirement rate contribution and employee compensation updates.
- 2. Developmental Centers.** The budget includes an increase of \$3.6 million (\$2.2 million General Fund) in the current year and an increase of \$3.6 million (\$2.2 million General Fund) in the budget year for retirement adjustments pursuant to Control Section 3.60; an increase of \$1.1 million (\$0.6 million General Fund) in the current year and \$1.3 million (\$0.8 million General Fund) in the budget year for employee compensation adjustments approved through collective bargaining; a decrease of \$0.1 million in the current year and \$0.1 million in the budget year in lottery funds; and a decrease of \$0.7 million General Fund in the current year and \$1.0 million General Fund in the budget year due to an adjustment in lease-revenue debt service pursuant to Control Section 4.30.

Questions:

For Nancy Bargmann, DDS

- *Please provide a brief overview of the proposed budget.*

Staff Comments and Recommendations: Informational Item. No action necessary.

¹ Updated current year

ISSUE 2: Headquarters – Update on Previous Actions

In recent years, the department has seen their headquarters staff increased for specific purposes. These include:

State Developmental Centers' Closure. \$2.1 million (\$1.8 million General Fund) for eight new permanent positions, and the redirection of five vacant positions, for a total of 13 positions. As of March 1, 2017, eight positions have been filled.

Home and Community-Based Services (HCBS) waiver transition plan and regional center and service provider compliance. \$483,000 (\$330,000 General Fund) and four permanent positions. As of March 1, 2017, three positions have been filled.

Vendor Audits. \$952,000 (\$650,000 General Fund) to permanently establish seven positions (previously limited-term). As of March 1, 2017, all positions are filled.

Competitive Integrated Employment Program, Provider Rate Increase Oversight, and Provider Rate Study. \$752,000 (\$513,000 General Fund) and five positions. As of March 1, 2017, three positions have been filled.

New Fiscal and Program Research Section. \$923,000 (\$630,000 General Fund) for seven new permanent positions and the redirection of one position, for a total of eight positions. As of March 1, 2017, six have been filled, including a PhD-level unit manager.

Background. Last year, the department requested, and the Legislature approved, this new unit to provide fiscal and programmatic analyses to assist the department's response to external requests for data and information related to the regional center and developmental center programs, as well as to inform accurate, reliable, data-driven decisions.

Some of the department's most critical issues require reliable and timely data including regional center purchase- of-service expenditure growth, geographically and by regional center; provider services availability and trends in the community service delivery system; disparities data; maximizing the use of third party funds and federal funds; and rates. Other research issues identified include meeting the needs of individuals with challenging service needs/resource development, compliance with Title 17 regarding special incident reporting requirements, and fair hearing data.

According to the department, since the section began operations in July 2016, executive staff have strategized about how this small can best support the department's short and long-term priorities. Guiding the department are the following:

- A commitment to learning more about the causes of and solutions to differences in service access across certain groups of consumers, including communities of color;
- Legislative requirements to assess certain aspects of regional centers, as outlined in AB 1606, as well as other legislative directives;

-
- The director's urgent, daily needs for data analysis to make program and policy decisions and provide information to stakeholders; and
 - Supporting the analytical and reporting responsibilities of other units in the department, for instance by consulting about data analysis, data quality or data presentation.

In addition, the department recognizes that the section must devote attention to building a thorough, detailed knowledge base about the department's administrative data – including understanding its limitations – and the department's programs and regional center operations. In this context, and through regular discussion of the department's evolving needs, the research section's priorities for FY 2016-17, have been identified, as listed below. Ideas for new projects that may be implemented in FY 2017-18, or later, are also reported below.

Priorities for FY 2016-17

Enhance data analysis and research capacity throughout the department.

- Promulgate professional standards for analyzing and presenting information in the section and in other units.
- Examine and improve data integrity.
- Link data systems across divisions for consistency and improved accuracy and timeliness

Plan and launch a major research project on disparities to service access, with short- and long-term goals and deliverables.

- Assist in crafting the director's Roadmap to Identify and Close Gaps in Service Access.
- Provide data analysis for legislative hearings and briefings and information requests.
- Prepare the first annual assessment of regional center disparities data and plan reports for future years.
- Design a new legislatively-mandated monthly report on progress toward closure of developmental centers; establish a regular process for posting the reports to DDS' website.
- Provide research and data for the director's program and policy decision-making on topics that are not the purview of other units in the department.
- Regional Center Oversight and Accountability: Research, plan and undertake additional data analysis to support the department's oversight of regional centers.

Other Priority Projects Under Consideration

- Analyze the impacts of increased appropriations and rate increases.

- Provide research and data analysis for the director’s new Advisory Group on Reducing Disparities.
- Provide analytical support for the department’s participation in the Community of Practice on Cultural and Linguistic Competency led by the Georgetown University National Center for Cultural Competence, in partnership with Disability Rights California (DRC), the State Council on Developmental Disabilities (SCDD), University Centers for Excellence in Developmental Disabilities (UCEDDs) at the University of California Davis, the University of California Los Angeles and the University of Southern California/Children’s Hospital Los Angeles, and two other stakeholders, if California’s proposal is accepted.
- Examine cost drivers, trends and under-utilization of services to better understand some crucial consumer experiences and changing service needs – for example, for individuals at transition points (moving from school-age to adulthood and our aging population) or increases in autism diagnoses.
- Utilize National Core Indicators (NCI) survey data to measure consumer and family outcomes and satisfaction with regional center services.
- Utilize NCI survey data to track progress in increasing cultural competency and reducing barriers to services.

Legislative Analyst’s Office (LAO). At the time of consideration, the LAO recommended that the Legislature identify goals and possible deliverables for this new unit. AB 1606 (Committee on the Budget), Chapter 26, Statutes of 2016, require that these resources be used, in part, to “annually assess disparities data reported by regional centers, caseload ratio requirements by regional centers, and performance dashboard data, collected pursuant to Section 4572 of the Welfare and Institutions Code, as it becomes available.”

The LAO again recommends the Legislature should set more specific research goals to encourage data-driven decision-making. Specifically, the LAO suggests these goals could include:

- Assessment of service gaps and provider capacity.
- Causes of disparities and purchase-of-services (POS) funding.
- Alternatives to regional center core staffing formula.

Questions.

For Nancy Bargmann, DDS

- *Please provide an overview of the new Fiscal and Program Research Section.*

For Sonja Petek, LAO

- *Please present your recommendation related to the Fiscal and Program Research Section.*

Staff Comments and Recommendations. Informational Item. No action necessary.

ISSUE 3: Headquarters - Information Security and Privacy Support - Budget Change Proposal (BCP)

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

Background: The department compiles and retains personal, confidential, and protected health information for more than one million consumers who have or who currently receive services. Regional centers also collect and retain personal, confidential, and protected health information on current and former consumers for whom they coordinate and provide services. The department's Information Security & Privacy Section is responsible for departmental compliance, and by extension regional center and regional center vendor compliance, with all federal and state information security and privacy laws and regulations. The section is also responsible for providing guidance and support to staff located at headquarters, the developmental centers, and the 21 regional centers. Critical activities of the section include policy management, asset management, disaster recovery, data breach management/reporting, risk management, information technology systems access oversight, and security awareness and training.

The department argues that this staff will result in improved security over the personal, confidential information for hundreds of thousands of California's most vulnerable citizens. Additionally, increased resources will improve compliance in all areas of security and privacy regulations, improved risk assessments, and improved threat prevention strategies. The federal Office of Civil Rights (OCR) has significantly ramped up its audit efforts this past year and has been levying substantial fines on state departments, universities, and their business associates where deficiencies in HIPAA compliance were identified. Recent OCR fines for audit findings have been averaging in the millions for case settlements.

The department is one of 15 state departments required to comply with federal HIPAA and Health Information Technology for Economic and Clinical Health laws. Failure to comply can result in significant monetary fines. Recent fines levied against health providers and other state departments are as high as \$5.5 million. Given that services to consumers are provided statewide at the developmental centers, and through 21 regional centers and 40,000 vendors, the department has the unique responsibility to provide policy guidance and oversight. With additional resources, the department will share the policies and standards it has developed, which reflect federal compliance requirements, as the basis and foundation for reviewing and developing any policies and standards that are lacking. Although the department has temporarily redirected three positions to address some information security issues, it does not have sufficient staff resources that it can permanently assign to travel and support the developmental centers, regional centers, and regional center vendors.

Questions: Staff comments and recommendation: Leave Open.

ISSUE 4: Headquarters - Community Housing Development Oversight - BCP

Proposal. The budget proposes **\$597,000 (\$554,000 General Fund)** for four permanent positions to oversee the development of permanent community housing by the regional centers. Specifically, the department requests:

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

Background. Community Placement Plan (CPP) funds have been used by regional centers to develop permanent community housing for persons moving from developmental centers, Institutions for Mental Disease (IMDs), other institutional settings, and those at risk of moving to more restrictive settings. The department intends to use these positions to provide necessary infrastructure and oversight to increase these efforts, support the department's expansion of the "buy it once" housing model, and advance the recommendations of the Disabilities Services Task Force to develop specialized community residential resources. The department will use these resources to:

- Provide enhanced due diligence to analyze the qualifications of approved housing developers, review regional centers' and housing developers' contracts, and review new CPP funding requests.
- Process new funding requests, thoroughly review all the CPP housing proposals and requests to acquire properties, and review and monitor required CPP property documents.
- Consistently monitor progress and expenditures during the development and rehabilitation/construction phases after the acquisition of new CPP properties.
- Monitor changes in ownership, financing, and sustainability of the CPP properties.
- Provide ongoing training opportunities for regional centers and housing developers that own the housing.
- Review project proposals for compliance with federal financial participation eligibility requirements.
- Collaborate with state agencies in the development of affordable housing for individuals with developmental disabilities eligible for regional center services.
- Build relationships with state and privately-funded entities to develop additional funding

options for the acquisition of CPP properties.

Questions:

For Nancy Bargmann, DDS

- *Please present this proposal.*
- *Given that most of the housing acquisitions necessary to accommodate movers from developmental centers have been made, why are these positions being requested now?*

Staff recommendation: Leave open pending further review.

ISSUE 5: Headquarters - Self-Determination Implementation Update

Background. SB 468 (Emmerson), Chapter 468, Statutes of 2013, establishes a statewide self-determination program (SDP), under which consumers are provided with individual budgets and the ability to purchase services and supports that are consistent with their individual program plan (IPP) and with the assistance of a financial manager. SDP must be consistent with the new federal Home and Community-Based Services (HCBS) regulations discussed in this agenda. Under the provisions of SB 468, participation will be limited to 2,500 individuals for the first three years of implementation, although there is an ability to request an increase. After three years, the program will be open to everyone who receives regional center services.

The department has worked with a stakeholder workgroup to design and submit a federal waiver application to the Centers for Medicare and Medicaid Services (CMS). However, on December 11, 2015, the state received a letter from CMS requesting additional information before the waiver could be approved. Most central to the CMS requests is assurances that the SDP program is compliant with the HCBS final rule. It is unknown at this time when federal approval will occur. On February 24, 2017, the departments of Developmental Services and Health Care Services participated in a technical assistance discussion with CMS, during which CMS indicated general agreement with the department's responses to most of the outstanding questions. In follow-up to this discussion, the department will provide additional information requested by CMS for their informal review this month.

The budget includes budget bill language to allow the transfer of up to \$2.8 million from local assistance to state operations once federal approval occurs. This represents the estimated General Fund savings in purchase-of-services associated with the SDP program that would be used to offset the administrative costs incurred by the department.

Questions:

Nancy Bargmann, DDS

- *What is the current state of federal approval of this program?*
- *Once federal approval is achieved, how confident are you that regional centers are prepared and fully committed to implementation and that communities have been sufficiently educated about the program to ensure those who could benefit from this model participate?*
- *How will you measure success?*

Staff Comments and Recommendations: Information Item. No Action Necessary.

PANEL 2: DEVELOPMENTAL CENTERS - ISSUES 6-13**Nancy Bargmann, Department of Developmental Services****Kris Cook, Department of Finance****Sonja Petek, Legislative Analyst's Office****Aaron Carruthers, State Council on Developmental Disabilities****Kathleen Miller, Sonoma Developmental Center Parent Association****Carl London, Lanterman Coalition****ISSUE 6: Developmental Centers - Overview**

Background. The department is required under the Lanterman Developmental Disabilities Services Act to provide services and supports for individuals with developmental disabilities, and through those services, help each individual live the most independent and productive life possible. At one time, the department operated seven developmental centers in the state, providing habilitation and treatment services on a 24-hour basis to ensure the health and safety of residents. In the mid-1990s the department closed the Camarillo and Stockton developmental centers. More recently, in 2009, the Department closed the Agnews Developmental Center, followed by the Lanterman Developmental Center closure in 2014. Currently, the department operates three developmental centers in Sonoma, Porterville, and Costa Mesa (Fairview), as well as one community based facility - Canyon Springs, in Cathedral City. The developmental centers are licensed under three categories: general acute care (GAC), nursing facility (NF) residential units, and intermediate care facility/developmental disability (ICF/DD) residential areas. The state-operated community-based facility is smaller and is licensed as an ICF/DD.

AB 1472 (Committee on Budget), Chapter 25, Statutes of 2012, imposed a moratorium on admissions to developmental centers except for individuals admitted to restore competency, determined to be incompetent to stand trial, or who are in acute psychological or behavioral crisis and in need of short-term stabilization. The developmental center resident population has dropped from a high of 13,400 in 1968, with thousands on waiting lists for admission, to 867 on March 1, 2017. The budget estimates a July 1, 2017 developmental center population of 760 and a July 1, 2018 population of 490. Consistent with the recommendations of the Health and Human Services Agency report entitled "Plan for the Future of Developmental Centers in California," and the call for the transformation of developmental center services, the 2015 May Revision proposed to initiate the closure planning process for the remaining developmental centers.

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

Historically, the department has received federal Medicaid funds for operation of the developmental centers. However, on July 1, 2014, the California Department of Public Health (CDPH), acting on behalf of CMS, terminated the ICF/DD Provider Agreement for Sonoma due to ongoing non-compliance with the federal conditions of participation. In response, the department negotiated with

² Based on weekly census data provided by DDS, which includes those residents on leave.

CMS, and entered into a settlement agreement on June 30, 2015, to extend the provider agreement for Sonoma until July 2016, with the option for reconsideration to extend the termination date to July 1, 2017. However, CMS subsequently notified the department on May 13, 2016, that federal financial participation for Sonoma would end on June 3, 2016. Although CDPH notified both Fairview and Porterville-General Treatment Area (GTA) that both centers would be decertified effective December 1, 2015, this date was extended a number of times through July 1, 2016. The department entered into a settlement agreement with CMS on July 1, 2016, to extend the provider agreement for the ICF/DD units at Fairview and Porterville-GTA through December 2016, with possible extension dates annually through 2019. In October and November 2016, CMS and CDPH re-surveyed Fairview and Porterville-GTA, and extended federal funding through 2017. Despite these extensions, CMS reserves the right to revoke certification at any time. Should that occur, the department estimates the monthly loss of federal funds at \$6.7 million in 2016-17 and \$4 million in 2017-18 (\$48 million in annual terms).

For the developmental centers, two state-run crisis units on developmental center grounds, and the state-leased and operated community facility (Canyon Springs), the following charts show the populations remaining, movement in and out, and transition activities occurring for residents, as of February 28, 2017.

1. Population

Total population for closing facilities declined by 76 from October 1, 2016 through February 28, 2017.

Population for non-closure facilities increased by one (1) for a net decrease in total population of 75. As of February 28, 2017, both the Northern and Southern STAR homes were at full capacity.

POPULATION			FY 16/17	
			10/1/16	2/28/17
CLOSURE	Fairview (FDC)	NF	82	77
		ICF	125	108
	Porterville (PDC)	NF	45	41
		ICF (GTA)	95	85
	Sonoma (SDC)	NF	151	132
		ICF	183	162
	All Facilities	NF	278	250
		ICF	403	355
Subtotal		681	605	
NON-CLOSURE	Canyon Springs (CS)	ICF	45	47
	FDC	Southern STAR	4	5
	PDC	ICF (STP)	209	206
	SDC	Northern STAR	4	5
	All Facilities	Subtotal	262	263
TOTAL			943	868

Acronyms: *GTA = General Treatment Area; STP = Secure Treatment Program*
NF/ICF = Skilled Nursing Facility/Intermediate Care Facility
STAR = Stabilization, Training, Assistance and Reintegration

2. Movement

One hundred two (102) individuals were placed into the community from October 1, 2016, through February 28, 2017 -- 65 from facilities slated for closure.

FDC had 19 placements, one (1) who was returned from provisional placement; PDC had 10 placements from the GTA and 31 from the STP; SDC placements totaled 38 (2 from Northern Star). Canyon Springs had 4 placements and six (6) transfers in: One (1) from PDC GTA, four (4) from PDC STP, and one (1) from FDC.

MOVEMENT FY 16/17: 10/1/16 thru 2/28/17		OUT			IN		
		Placements	Deaths	Transfers to DC/CF	New Admissions	Transfers In	Returns from Placement
CLOSURE	FDC	19	3	1		0	1
	PDC GTA	10	3	1		0	0
	SDC	36	4	0		0	0
	Subtotal	65	10	2	0	0	1
NON-CLOSURE	CS	4	0	0		6	0
	FDC Southern STAR	0	0		1		
	PDC STP	31	1	4	33	0	0
	SDC Northern STAR	2	0		3		
	Subtotal	37	1	4	37	6	0
TOTAL		102	11	6	37	6	1

3. Transition Activity Snapshot

TRANSITION ACTIVITY AS OF 2/28/17		Level of Care	Population 2/28/17	Exploring Community Options	Meet & Greets	Transition Planning Meetings	Transition Review Meetings/ Move Date
CLOSURE	FDC	NF	77	56	7	12	2
		ICF	108	55	33	14	6
	PDC GTA	NF	41	35	0	5	1
		ICF	85	75	2	8	0
	SDC	NF	132	74	27	12	19
		ICF	162	98	10	27	27
	All Facilities Closing	NF	250	165	34	29	22
Subtotal		605	393	79	78	55	
NON-CLOSURE	CS	ICF	47	39	4	2	2
	FDC Southern STAR	ICF	5	1	1	2	1
	PDC STP	ICF	206	201	2	3	0
	SDC Northern STAR	ICF	5	2	0	2	1
	Non-Closing Facilities	Subtotal	263	243	7	9	4
TOTAL			868	636	86	87	59

Is the Department on Schedule for Planned Closure Dates? In the current year, the department projected that 228 consumers would transition from a state-run facility to the community. Of the 228, 199 individuals reside in a developmental center slated for closure. As of March 1, 2017, 86 of the 199 consumers had transitioned from developmental centers to the community. The budget projects that

268 consumers (258 closure and 10 non-closure) will transition to community based services in 2017-18.

For Sonoma Developmental Center, which is scheduled to close in December 2018, and where loss of federal funding is highest due to the decertification of its ICF units, the following chart shows the populations remaining in each program type, as of February 28, 2017.

Sonoma

Level of Care	Number of Units Open	Number of Clients
GAC	2	--
NF	8	132
ICF	8	162
Northern STAR	1	5
TOTAL	19	299

While it is of utmost importance that persons are not moved to the community before the services and supports are available, and that all steps that are necessary to a smooth and successful transition occur with each person who moves, it is also important to note that significant delays will create more significant cost pressures on the General Fund. Not only does the per capita cost for residents remaining in the developmental center increase substantially over time (the LAO notes the annual average cost to serve a person in a developmental center was about \$500,000 at the time the closure decision was made, the cost will be nearing \$700,000 annually per resident in the budget year), but the risk of further loss of federal funding increases.

Questions:

For Nancy Bargmann, DDS

- *Provide an update on progress toward closure and whether you are on track for the announced closure dates.*

For Aaron Carruthers, State Council on Developmental Services

- *The State Council has consumer advocates at each of the developmental centers. From their perspective, how is the closure process going?*

For Kathleen Miller, Sonoma Developmental Center Parent Association

- *What is your perspective on how the closure process is going?*

Staff comments and recommendations: This is an information item. No action is necessary.

ISSUE 7: Developmental Centers - Revised Estimate Process

Trailer bill language adopted with the 2016 budget act requires that the department provide budget estimates for each developmental center, including a break-out of staffing costs for Porterville Developmental Center's general treatment area and secured treatment area.

To estimate expenditures and funding on a developmental center-specific basis in 2017-18, the department established a new methodology to determine the staffing required to appropriately care for residents and operate each facility and to meet state licensing and the CMS settlement agreement requirements for continued federal funding.

Questions:

For Nancy Bargmann, DDS

- *Briefly describe how this process differs from how estimates for developmental centers were made in the past.*
- *How does this process better inform the Administration and Legislature regarding budgetary needs, trends and management?*
- *Does this process provide a useful tool to developmental centers in the management of their resources at a local level?*

Staff comments and recommendation: Information Item. No action is necessary.

ISSUE 8: Developmental Centers – Update on Previous Actions

The 2016 budget act included the following actions related to the developmental centers.

Developmental Center Employee Retention Stipends. The current year budget includes \$20.1 million (\$15.9 million General Fund) to provide retention stipends for specified developmental center staff and extends the encumbrance period for payment of these stipends. Historically, the announced closure of a state institution has resulted in an accelerated loss of staff due to retirement, transfer or departure. This can often complicate the difficult and delicate task of balancing the need to reduce staffing levels as resident populations decline, with the need to maintain required staffing ratios and other key staff positions throughout the closure process. Eligible staff accrue payments of \$250 each quarter beginning July 1, 2016 through June 30, 2017, and \$500 each quarter thereafter. The retention stipends will be paid at a midway point and upon layoff.

Other proposed employee supports that promote workforce stability and provide opportunities for employees post-closure, such as state service credit opportunities, and the ability to guarantee positions or specialized training for employees that stay through the end of a closure, have not been proposed.

Special Managed Care Provisions. AB 1606 extends managed care provisions for Medi-Cal-eligible individuals at the developmental centers that transition to the community and need coordinated medical and specialty care as documented in their individual program plan. These specified managed care provisions include access to specialized medical care, enhanced case management, and expedited enrollment services. The Legislature modified the Administration's proposed trailer bill language by requiring that the plan outlining these special provisions be shared with stakeholders prior to being finalized and be submitted to the Legislature by December 31, 2016. . The Administration is currently reviewing the plan, and once approved will release the plan to stakeholders for review.

Access to Specialized Health Care Services. According to the closure plans, the department will provide key specialized health care/clinic services at the developmental centers, currently being received by DC residents, on an ongoing basis throughout the transition process, and until necessary services are established and operational in the community. These services include, but are not limited to, medical, dental, adaptive engineering, physical therapy, orthotics, mental health, and behavioral services. For people with disabilities, for example, routine dental care is more difficult to provide and access to these specialized services may not be available in the community. Rate differentials, dental coordinators, and the development of specialized clinics have been cited as potential mechanisms to ensure access to these specialized services in the community.

To improve access to healthcare services for individuals transitioning to the community from Sonoma Developmental Center and for other regional center consumers living in the community, North Bay Regional Center secured \$2.5 million in Community Placement Plan funding through DDS as start-up funding for a federally qualified health center (FQHC) to provide specialized healthcare services in Sonoma County. A request for proposal was announced in December 2016, for establishment of a healthcare hub in the county designed to provide specialty healthcare, dental care, mental health services, and adaptive equipment and services for individuals with developmental disabilities. In March, the regional center announced that Santa Rosa Community Health Centers was the selected provider.

Community State Staff Program (CSSP). CSSP is designed to assist with the successful transition of developmental center/community facility consumers to community living, or for deflecting the admission of individuals with developmental disabilities to a developmental center, an institution for mental diseases (IMD), an out-of-state placement, or an acute psychiatric hospital. CSSP was originally established under provisions developed through collective bargaining agreements for the closures of Agnews and Lanterman developmental centers. In June 2014, the department received authorization to expand the use of the CSSP for the broader goals of transition or deflection, and in 2015 collective bargaining agreements were subsequently developed to enable the new program.

CSSP provides the opportunity to retain experienced staff within the department system, providing continuity of care to the some consumers, a level of trust and support for some family members of individuals moving from developmental centers, and new employment options for employees who wish to continue serving this population. CSSP also gives service providers and regional centers greater access to qualified staff.

While working in a community setting, these employees retain their civil service status, including salary and benefits; and the state receives full reimbursement via the contract for these services. Ideally, after working in the program, the employees transition to other roles in the service system supporting consumers.

Currently, the CSSP consists of six contracts with 72 positions available to be filled, as follows.

- Twenty-one of the 72 positions are filled with staff from previous DC closures.
- Of the remaining 49 positions, two staff are working in the community, and 18 have received tentative offers with future start dates when consumers transition to the community from DCs. Thirty-one positions are in the interview process and/or are available to be filled.

The following contracts are under negotiation:

- Two contracts are being amended to add positions to the existing agreements.
- Four new contracts are being drafted.
- These contract activities are estimated to create an additional 47 positions.

In a report submitted in February 2017, the department reports that since March 2009, 122 state

Interim Report on Developmental Center Movers. Pursuant to Welfare and Institutions Code Section 4474.12, the department contracts for a mover's longitudinal study that will continue until the developmental centers close. Researchers conducting the study meet with each individual participating in the study at intervals of three months, six months, one year, and two years following the person's move into the community from the developmental center to discuss the individual's quality of life and services and supports.

The department is required to annually submit interim reports to the Legislature regarding the study, and include information about consumer and family satisfaction and adequacy of community services. Upon the completion of the study, the department must submit the study to the Legislature. The department indicates a report covering surveys conducted in 2016 will be issued in May 2017. To date, 106 individuals have been enrolled in the study.

Assessment of Sonoma Developmental Center. In preparation of closure, the department utilized existing funds of \$190,000 General Fund in 2015-16 to conduct an environmental impact report and architectural historical evaluation and \$2.2 million General Fund was provided in the current year for an assessment of property, buildings, and clinical records. These funds will be used to complete the second and third phase of an environmental site assessment and architectural historical evaluation of center property. According to the Administration, these assessments will help determine: (1) the property value, (2) restrictions on land use, and (3) the potential cost of future investments on the property. The department contracts with the Department of General Services for these activities. DGS anticipates having a contract in place by the end of March or early April, and will remain within budgeted amount of \$2.2 million. The assessment is estimated to be completed in 6-8 months.

Questions:

For Nancy Bargmann, DDS:

- *How many employees are participating in the retention stipend program at each facility, and how does participation meet your expectations? Is the department exploring other strategies for retaining experienced staff through the closure process?*
- *When will the department release its special managed care provisions plan for stakeholder input? Can you provide some broad insight into what the plan will say, and how it will be informed by lessons learned from previous developmental center closures?*
- *Access to the kind of specialized health care services available at the developmental centers has been of significant interest to system stakeholders. Where is the department in exploring this issue? How does the proposed “healthcare hub” associated with a federally-qualified health care clinic in Santa Rosa address this? Is the department exploring how staff resources currently at the developmental center, who have unique qualifications and familiarity with this population, can be utilized once the centers have closed?*
- *While it seems to be going a little better, the community state staff program still seems underutilized. What strategies is the department exploring to increase interest and to what degree has the department explored other uses of state staff, including use of state staff as mobile crisis specialists?*
- *What have the assessment activities at Sonoma told us thus far, as to options for future use of this land? What is the next assessment phase intended to tell us? When will the Administration have a proposal for the future use of this land? Is it the intent of the Administration that the land will stay under DDS control until such time that decision is made?*

Staff comments: Information Item. No action is necessary.

ISSUE 9: Developmental Centers – Current Year Budget Shortfall

The budget projects a \$27.2 million reduction in estimated Medi-Cal reimbursements to the developmental centers. The budget proposes to backfill for this loss by a transfer from the local assistance budget (regional center purchase-of-services) which is projecting savings in the current year (discussed later in the agenda).

According to the department, the following factors necessitated the need for this request:

- In prior years, DDS used systemwide percentages for funding allocations in the developmental centers budget estimate process that were not always updated in a timely manner based on actual cost reporting. The department submits final Medi-Cal cost reports to Department of Health Care Services (DHCS) for developmental center reimbursements several months after the end of a fiscal year, subject to later audit by DHCS. Audit findings considered from DHCS audits conducted since 2012-13 (2008-09 through 2011-2012 fiscal years) that impacted federal fund reimbursements are as follows:
 - Disallowed workers compensation costs for closed developmental centers going back to Stockton and Camarillo that are only allowable under certain criteria.
 - Disallowed bed days based on system issues and source documentation.
 - Unliquidated encumbrances.
 - Provisional placement days.
 - Disallowed certain ancillary costs and depreciation.

Corrective actions taken as result of the audits include:

- DHCS and DDS worked together to update their interagency agreement to include improved documentation and billing procedures/processes.
 - DHCS and DDS have agreed upon acceptable source documentation for billable days and costs.
 - DDS redirected additional staff resources to the Medi-Cal billing unit.
 - DDS improved billing processes to identify potential billing issues and anomalies.
 - DDS revised cost calculations for depreciation, ancillary services, and workers' compensation for closed facilities to reflect audit findings.
- The proposed Governor's Budget for 2017-18 for the developmental centers used a new formula to estimate staffing levels based on number of units and acuity level in each center, with operating expenses, drugs and other client costs based on prior years of expense. The estimated amount of federal fund reimbursement of these costs was also based on acuity level and considers the impact of recent DHCS audits that disallowed certain costs for federal reimbursement.
 - The ICF units at Sonoma are decertified.

Questions:

For Nancy Bargmann, DDS:

- *Please describe the reason for this shortfall and your level of confidence that such shortfalls are not likely to occur in the future.*
- *In order to maximize federal funding, to what degree do you prioritize persons in ICF units when developing the resources necessary to facilitate a successful move to the community?*

Staff comments: Leave Open Pending May Revision.

ISSUE 10: Developmental Centers - Budget Year Adjustments

The budget proposes a number of adjustments in the budget year related to facility downsizing and pre-closure-related activities.

- \$78.6 million decrease (\$9.7 million General Fund) and 489.2 positions resulting from an estimated developmental center population reduction of 257 residents and associated consolidation of units and reduced operating expenses and equipment (OE&E).
- \$0.3 million increase (\$0.2 million General Fund) for the disposal and/or relocation of physical property and equipment assets in preparation for closure of Sonoma and Fairview developmental centers, and the general treatment area at Porterville Developmental Center.
- \$0.5 million increase (\$0.4 million General Fund) to inventory, scan, and archive clinical records at Fairview Developmental Center and the general treatment area of Porterville Developmental Center.

Questions:

For Nancy Bargmann, DDS

- *Briefly described this proposal.*
- *How does the department balance the cost-effectiveness value of unit consolidation at the developmental centers with minimizing the impact of “transfer trauma” on those being moved?*

Staff comments and recommendations: Leave Open Pending May Revision.

ISSUE 11: Developmental Centers: Proposed Trailer Bill Language (TBL): Developmental Center Staff Transitioning to Vendor Status - PROPOSED CONSENT

With the previous closures of Agnews Developmental Center in Santa Clara County and Lanterman Developmental Center in Los Angeles County, the department has utilized strategies to create a pathway from developmental center employment to community employment within the developmental disabilities service systems. AB 1606 (Committee on Budget), Chapter 26, Statutes of 2016, created an exemption to Public Contract Code Section 10410, to allow department employees to continue to work for the state, while under contract with a regional center to develop community-based services for persons with developmental disabilities. This was done to encourage developmental center employees to become community service providers while maintaining state employment and income during the provider start-up period but before the actual provision of services begins. However, as written, the current statute has been subject to different interpretations and the proposed trailer bill, attached, provides necessary clarification.

Staff comments and recommendations: Consent

ISSUE 12: Developmental Centers - Capital Outlay Project - Porterville Developmental Center Water System - PROPOSED CONSENT

Proposal: \$3.7 million General Fund for preliminary plans, working drawings, and construction phases to install groundwater nitrate remove system (NRS) at Porterville Developmental Center. The NRS is required to reduce to a safe level, excess nitrates from the domestic water supply, as supported by a Department of General Services contracted study.

Background: Porterville Developmental Center is located on the eastern side of the Tule Subbasin, which is known to have localized nitrate pollution due to agricultural, commercial, and industrial activities including fertilization and discharges from animal operations. Nitrate levels have been up to 33 percent higher than the minimum contamination levels of 45 percent parts per million (ppm). Nitrate is a carcinogen and, if not properly diluted or treated, can pose significant health risks. Through the natural process of groundwater recharge, which is deep drainage or deep percolation of rain, natural streams, water ways, and irrigation into groundwater and aquifers, nitrate levels can be reduced. However, according to the Administration, recent drought conditions have significantly diminished these subsurface inflows and has contributed to excessive nitrate levels.

Staff comments and recommendations: Consent.

ISSUE 13: Developmental Centers -Report on General Funds Savings Associated with Closures

Background: SB 82 (Committee on Budget and Fiscal Review), Chapter 23, Statutes of 2015, requires the department to identify General Fund savings associated with the downsizing or closure of developmental centers. The chart below shows the funding impact of downsizing and closure-related activities on the developmental centers, regional centers, and headquarters budgets.

Developmental Center Closures – Funding Impacts³						
Dollars in Thousands						
	FY 2015-16		FY 2016-17		FY 2017-18	
Program/Activity	TF	GF	TF	GF	TF	GF
DCs-Operations Adjustments	\$1,500	\$800	-\$8,800	\$22,300	-\$80,800	-11,900
DCs-Closure Activities	\$1,700	\$1,100	\$7,100	\$5,300	\$5,700	\$3,600
Community Services-Closure Placements	\$46,700	\$43,700	\$78,800	\$69,100	\$25,700	\$19,200
Community Services-Continuation Costs	\$48,100	\$30,500	\$45,000	\$26,000	\$68,700	\$40,700
HQ-Closure Coordination and Oversight	\$0	\$0	\$2,100	\$1,800	\$2,100	\$1,800
TOTAL	\$98,000	\$76,100	\$124,200	\$124,500	\$23,200	\$53,400

The department does not identify any net savings related to downsizing or closure-related activities in the budget year. As in the previous two fiscal years, increased expenditures related to a higher per capita cost of remaining residents, closure activities, placement costs, and ongoing community costs for persons who have moved continue to outpace cost reductions at the developmental centers. Based on previous experience, it is not anticipated that net savings will be realized until the developmental center is fully closed.

Report on General Fund Backfill Due to Sonoma Developmental Center Federal Decertification.

AB 1606 (Committee on Budget), Chapter 26, Statutes of 2016, requires the department to report quarterly to the Joint Legislative Budget Committee on the estimated amount of General Fund expenditures used to backfill federal funding as a result of the decertification of intermediate care facility units at the Sonoma Developmental Center. The report submitted on March 7, 2017, estimates, the need for General Fund backfill, as January 10, 2017, to be \$32.4 million. This amount will be updated with the May Revision.

Stakeholder Proposals.

The Lanterman Coalition recommends the restructuring of state and community-based responsibilities by: (a) expeditiously completing the closure of developmental centers, thus recapturing federal funding

³ Chart does not include other costs to the state that are not reflected in the department's budget, such as Medi-Cal and in-home supportive services for persons living in the community. The chart does not include accelerated expenditures to resolve outstanding workers' compensation claims for developmental center employees.

currently suspended due to the decertification of SDC's ICF units; (b) providing timely and sufficient funds to assure community services are available to consumers moving out of developmental centers; and (c) retaining state funds and assets currently devoted to the developmental centers and utilizing them for the community-based system.

The Association of Regional Center Agencies (ARCA) requests that as financial resources become available due to developmental center closures, they should be redirected to stabilizing and supporting community services.

Questions:

For Nancy Bargmann, DDS

- *Has the Administration projected when and how much net savings will be realized relative to the down-sizing and closure of the developmental centers?*

For Carl London, Lanterman Coalition

- *Briefly describe your proposed restricting of state and community-based responsibilities.*

Staff comment and recommendation: Informational Item. No action is necessary.

PANEL 3: REGIONAL CENTERS OPERATIONS - ISSUES 14-18**Nancy Bargmann, Department of Developmental Services****Kris Cook, Department of Finance****Sonja Petek, Legislative Analyst's Office****Amy Westling, Association of Regional Center Agencies****Catherine Blakemore, Disability Rights California****Tiffany Whiten, SEIU****ISSUE 14: Regional Center Operations Overview**

Background: The Lanterman Act establishes 21 regional centers as private, non-profit agencies, each directed by the policies and decisions of a locally-established board of directions. However, the department provides necessary oversight through its contractual relationship with each regional center and it is the responsibility of the department to ensure that services and supports provided in the most effective and efficient means possible and that the tenets of the Lanterman Act and other relevant state and federal requirements are met. The 21 regional centers:

Regional Center	Counties Served	Total Served⁴
Alta California	Alpine, Colusa, El Dorado, Nevada, Placer, Sacramento, Sierra, Sutter, Yolo, Yuba	21,831
Central Valley	Fresno, Kings, Madera, Mariposa, Merced, Tulare	18,216
East Bay	Alameda, Contra Costa	
Eastern L.A.	Eastern L.A., including Alhambra, Whittier	11,200
Far Northern	Butte, Glenn, Lassen, Modoc, Plumas, Shasta, Siskiyou, Tehama, Trinity	7,400
Frank D. Lanterman	Central L.A., including Burbank, Glendale, Pasadena	9,813
Golden Gate	Marin, San Francisco, San Mateo	9,084
Harbor	Southern L.A., including Bellflower, Harbor, Long Beach, Torrance	12,391
Inland	Riverside, San Bernardino	31,958
Kern	Inyo, Kern, Mono	8,245
North Bay	Napa, Solano, Sonoma	8,796
North L.A.	Northern L.A., including San Fernando and Antelope valleys	23,345
Orange County	Orange	20,119
Redwood Coast	Del Norte, Humboldt, Mendocino, Lake	3,756
San Andreas	Monterey, San Benito, Santa Clara, Santa Cruz	16,473
San Diego	Imperial, San Diego	25,108
San Gabriel/Pomona	Eastern L.A., including El Monte, Monrovia, Pomona, Glendale	12,924
South Central L.A.	Southern L.A., including Compton, Gardena	13,967
Tri-Counties	San Luis Obispo, Santa Barbara, Ventura	13,635
Valley Mountain	Amador, Calaveras, San Joaquin, Stanislaus, Tuolumne	12,824
Westside	Western L.A., including Culver City, Inglewood, Santa Monica	8,588

Staff Comment and recommendation: Informational Item. No action is necessary.

⁴ Caseload data is taken from the Client Master File as of June 25, 2016

ISSUE 15: Regional Center Operations - Update on Previous Actions

The 2016 budget act and ABX2 1 (Thurmond), Chapter 3, Statutes of 2016, provided funding enhancements to the regional centers' operational budgets. These include:

Regional Center Staff Salaries and Benefits. \$43.6 million (\$29.7 million General Fund) increase for regional center staff salaries and/or benefits (excludes executive staff and unfunded retirement liabilities). Regional centers must report specific information to the department regarding how these funds were used and failure to do so will cause the regional center to forfeit the funds. The department notified regional centers of their allocation amount, which is based on their proportional share of the total core staffing funding, in May 2016. The department will include a description of these increases and impact on caseload ratios at the May Revision.

Regional Center Administration Costs. \$1.9 million (\$1.4 million General Fund) increase for regional center administration, including the clients' rights advocacy contract. Regional centers must report specific information to the department regarding how these funds were used and failure to do so will cause the regional center to forfeit the funds. In May 2016, the department notified regional centers of their allocation amount based on their proportional share of the total core staffing funding. The clients' right advocacy contract was increased by \$21,155 annually (a 2.5 percent increase of contract's administrative costs). The department is required to describe the implementation of these augmentations in the May Revision.

HCBS Waiver Compliance. \$1.6 million (\$900,000 General Fund) for 21 program evaluators (one at each regional center) to ensure program settings are integrated into the community, as required by the federal HCBS waiver.

Disparities Specialist Staff and Employment Specialist Staff. \$4.5 million (\$3.1 million General Fund) for one of each position at each regional center.

Case Manager Caseload Ratios. \$17 million (\$13 million General Fund) for an estimated 200 program coordinator positions to improve compliance with federal caseload ratio requirements. Budget bill language requires each regional center to report on the number of program coordinators hired, the impact on caseloads and, if applicable, justification if funding is not used for this purpose. The department will provide an implementation update based on regional center report at the May Revision.

Background. The Association of Regional Center Agencies, in a 2013 report, found that a number of regional centers are not meeting caseload ratio requirements under the HCBS waiver, putting California at risk for a loss in federal funding. In recommending approval of this proposal last year, The LAO noted that because the proposal would not support staffing changes sufficient to bring regional centers into full compliance with all required caseload ratios, federal funds could still be at risk related to HCBS waiver consumers. While special session actions and the \$17 million augmentation provided in the current year should help mitigate some of this risk, that risk remains to the extent that regional centers are not meeting caseload requirements for HCBS consumers.

According to the Administration's testimony last year, it had not requested the total number of projected coordinators to meet federal caseload ratio requirements because it wants to consider the impact of this proposal and actions taken during the special session (e.g., wage increases for direct care staff) to get a better understanding for the need for these positions. The LAO recommended the

Administration report at budget hearings this year on the benefits, trade-offs, and implementation issues of targeting caseload ratio requirements where federal funds are at risk.

Stakeholder Proposals.

Service Employees International Union (SEIU), who represents service coordinators at some regional centers, request an augmentation of \$34 million General Fund to further reduce regional center case manager caseloads. According to SEIU, this amount would bring California into compliance with federal caseload requirements.

Disability Rights CA proposes reducing service coordinator caseloads for individuals who are receiving residential crisis services.

Questions:

For Nancy Bargmann, DDS

- *How does DDS ensure that these funds provided for specific staffing and outside of the core staffing formula, are used as intended?*
- *Do you have any early indications of the impact of the wage and benefit augmentations on case manager recruitment and retention?*
- *Do you have any early indications of the impact of the \$17 million for additional service coordinators in federally-required caseload ratios?*

For Tiffany Whiten, SEIU

- *Briefly present your proposal for additional service coordinator funding.*

For Catherine Blakemore, DRC

- *Briefly present your proposal for decreased service coordinator caseloads for individuals receiving residential crisis services.*

Staff comments and recommendations: Informational Item. No action is necessary.

ISSUE 16: Regional Center Operations - Current Year Adjustments

The Governor's budget requests a \$2.0 million increase (\$9.6 million General Fund decrease) reflecting caseload and service utilization adjustments. Specifically, the budget proposes:

- \$2.1 million increase (\$9.6 million General Fund decrease) due to increased caseload, offset by:
 - \$13,000 decrease in ICF-DD administrative fees.
 - \$34,000 increase for minor adjustments in projects for the affordable housing contract.
 - \$112,000 decrease for a minor adjustment in Denti-Cal.

Questions:

For Nancy Bargmann, DDS

- *Briefly present the current year adjustments.*

Staff comment and recommendation: Hold open for May Revision.

ISSUE 17: Regional Center Operations - Budget Year Proposals

The Governor's budget proposes the following in the budget year:

- \$26.7 million (\$25.2 million General Fund) increase reflecting caseload and service utilization.
- \$2.9 million (\$1.9 million General Fund) increase related to the minimum wage increase.
- \$0.2 million decrease (\$0.1 million General Fund decrease) in rent funds based on new rent budget methodology.
- \$0.5 million General Fund decrease to correct ABX2 1 regional center operations funding.
- \$3.3 million decrease (\$3.2 million General Fund decrease) reflecting one-time nature of rate study funding and small adjustment reflecting new rent methodology.

Questions:

For Nancy Bargmann, DDS

- *Briefly present the budget year proposal.*

Staff comment and recommendations: Hold open for May Revision.

ISSUE 18: Regional Center Operations - Reporting of Employment Outcomes by Regional Center – Proposed Trailer Bill Language

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

Background: Welfare and Institutions Code (WIC) requires the department to contract with private, non-profit corporations for the establishment of regional centers. Statute sets forth criteria for regional center governing boards, including membership criteria, terms of service, training requirements, conflict of interest prohibitions, the establishment of advisory boards, and other requirements intended to ensure regional centers meet their statutory obligations in a transparent and fiscally responsible manner.

WIC 4629 requires the department to enter into five-year contracts with regional centers, requiring each regional center to render services in accordance with applicable provision of state laws and regulations. The contract must include annual performance objectives that are specific, measurable, and designed to do all of the following:

- Assist consumers to achieve life quality outcomes.
- Achieve meaningful progress above the current baselines.
- Develop services and supports identified as necessary to meet identified needs, including culturally and linguistically appropriate services and supports.
- Measure progress in reducing disparities and improving equity in purchase of service expenditures.
- Be developed through a public process as described in the department’s guidelines.

In addition to the performance objectives developed through this public process, the department may specify in the performance contract additional areas of service and support that require development or enhancement by the regional center. In determining those areas, the department must consider public comments from individuals and organizations within the regional center catchment area, the distribution of services and supports within the regional center catchment area, and review how the availability of services and supports in the regional area catchment area compares with other regional center catchment areas.

Each contract is required to include steps to be taken to ensure contract compliance, including, but not limited to, incentives that encourage regional centers to meet or exceed performance standards; and levels of probationary status for regional centers that do not meet, or are at risk of not meeting, performance standards. Statute goes on to describe other steps the department may take to resolve contract disputes with regional center including, when all other efforts fail, termination or non-renewal of the contract.

Stakeholder Proposals: Disability Rights California requests this language be changed to focus on

the state blueprint for competitive integrated employment and federal Work Incentives Opportunity Act language, rather than Employment First language (discussed in Issue 22) and suggest additional measurement criteria, including:

- The number of consumers who have an IPP goal of integrated competitive employment.
- The number of consumers who are receiving integrated competitive employment.
- The number of consumers age 24 or younger in a job earning subminimum wage or lower.
- The number of consumers in an employment setting that does not meet the HCBS regulation.

Questions:

For Nancy Bargmann, DDS

- *Briefly present your proposed trailer bill language.*
- *What rationale have the five regional centers who have not included employment information in their performance contracts given for refusal?*
- *Is it the department's contention that they lack statutory authority to require this?*

For Amy Westling, ARCA

- *Does ARCA believe that the department lacks the authority to require this language in the performance contracts?*

For Catherine Blakemore, DRC

- *Briefly present your proposal.*

Staff Comment and Recommendation: It is unclear why existing authority is insufficient to accomplish the goal of this proposed language. However, the committee may wish to direct staff to work with the department and ARCA to ensure performance contracts are a meaningful tool, including the ability of the department to require within a performance contract those activities, measurements and reporting necessary to ensure regional centers comply with all applicable laws and regulations. Hold open.

PANEL 4: REGIONAL CENTERS PURCHASE-OF-SERVICES - ISSUES 19-29

Nancy Bargmann, Department of Developmental Services
Kris Cook, Department of Finance
Sonja Petek, Legislative Analyst's Office
Rick Rollins, Association of Regional Center Agencies
Marty Omoto, California Person Centered Advocacy Partnership
Catherine Blakemore, Disability Rights California
Aaron Carruthers, State Council on Developmental Disabilities
Barry Jardini, California Disability Services Association
Greg deGiere, The Arc California
Steve Miller, Lanterman Coalition

ISSUE 19: Regional Center Purchase-of-Services Overview

Through their purchase-of-services budget allocation, regional centers provide community-based services to individuals who live with parents or other relatives, in their own houses or apartments, or in more structured community living arrangements (i.e., group homes, residential care facilities, intermediate care facilities) designed to meet their medical or behavioral needs. Once individuals qualify for services under the Lanterman Act, the state provides these supports throughout their lifetime. These services and supports range from day programs to transportation or residential services. Determination of which services an individual needs is made by an interdisciplinary team that develops an Individualized Program Plan or Individual Family Service Plan, if the consumer is an infant/toddler three years of age or younger. Services that are included in these plans are entitlements and regional centers purchase them if necessary (i.e., an individual does not have private insurance that covers the service and there is no “generic” or publicly provided service available). The department uses caseload and utilization data to determine the amount each center receives in purchase-of-service funding annually.

The following chart shows the proposed statewide purchase-of-services budget as it compares to the adjusted purchase-of-services expenditures in the current year.

POS Expenditures

The 2017-18 POS caseload expenditures reflect a net increase \$290.7 million (\$258 million GF), or 6.11 percent, over the updated 2016-17 projections. Of this increase, \$209 million is due to expenditure increases in the Base. Community Care Facilities, Support Services, and Day Programs comprise 71 percent of the total increase over the updated 2016-17 projections.

Purchase of Services Caseload (Utilization and Growth) <i>(Values in thousands)</i>				
	Updated 2016-17	2017-18	Change over Updated 2016-17	Percent Change
Community Care Facilities	\$1,193,781	\$1,259,012	\$65,231	5.46%
Medical Facilities	20,937	22,164	1,227	5.86%
Day Programs	997,648	1,047,134	49,486	4.96%
Habilitation	151,744	155,009	3,265	2.15%
<i>Work Activity Program</i>	51,829	51,818	-11	-0.02%
<i>Supported Employment Program - Group</i>	81,236	84,183	2,947	3.63%
<i>Supported Employment Program - Individual</i>	18,679	19,008	329	1.76%
Transportation	303,293	323,108	19,815	6.53%
Support Services	1,116,468	1,209,519	93,051	8.33%
In-Home Respite	315,036	347,602	32,566	10.34%
Out of Home Respite	40,615	40,941	326	0.80%
Health Care	110,596	120,414	9,818	8.88%
Miscellaneous	498,320	514,194	15,874	3.19%
Quality Assurance Fees	9,324	9,324	0	0.00%
TOTAL	\$4,757,762	\$5,048,421	\$290,659	6.11%

Staff Comments and Recommendations. Informational Item. No action is necessary.

ISSUE 20: Regional Center Purchase-of-Services - Update on Previous Actions - Home and Community-Based Services (HCBS) Compliance – Proposed Trailer Bill Language: HCBS Policy Directives

Background. California receives approximately \$1.8 billion in federal funding annually for approximately 130,000 persons with developmental disabilities through the federal HCBS programs and 1915(i) State Plan option. These programs provide Medicaid funding for eligible individuals to receive services and supports in home and community-based settings, rather than in an institution. In order to continue to receive these funds, states must comply with new waiver conditions, called the “final rule”, by March 2019. The final rule requires a person-centered planning process, greater choice in life decisions and daily living, and requires services and supports be provided in settings that maximize independence and community integration.

Last year, the Legislature approved \$15 million (\$11 million General Fund) annually to fund modifications to service providers’ programs to comply with the HCBS waiver. Regional centers are to report annually to the department on the number of providers receiving this funding. The department will report at May Revision on the implementation of this item.

Additionally, the Legislature approved \$46 million (\$26 million General Fund) in 2016 to help transition and establish smaller alternative residential model (ARM) four-bed homes for regional center consumers living outside their family. Originally, this model was based on six-bed homes; provisional budget bill language requiring regional centers to report annually to the department the number of facilities receiving these rates; and trailer bill language to establish a rate schedule for residential community care facilities vendored to provide services to a maximum of four persons with developmental disabilities. This trailer bill language also prohibits regional centers from authorizing any residential service-level changes, if the change would increase state costs. This funding is continued at the same level in the budget year.

DDS indicates that there are 4,233 ARM community care facilities (CCFs), serving 21,118 consumers. Regional centers reported that approximately 900 CCFs received this new rate.

Legislative Analyst’s Office. The LAO has expressed concern that the department is falling behind in helping providers comply with these new federal rules. According to the LAO, the Department of Health Care Services (DHCS), the lead state agency responsible for ensuring compliance with federal Medicaid rules, is waiting for final approval of the state transition plan (STP) from CMS before beginning official provider compliance assessments, LAO expresses concerns that this may leave little time to make necessary programmatic and facility changes. The revised STP was submitted on November 23, 2016, leaving at best two years to achieve state compliance. LAO notes that the department received requests for more than \$130 million when soliciting applications for the \$15 million in modification funding. The LAO recommends that the department be required to report on the extent and severity of provider noncompliance and the potential need for additional resources to ensure compliance. Specifically, the LAO suggests the department report on the following:

- The nature of funding requests received and whether they identified any serious compliance issues.
- What providers propose to do and whether the proposals collectively suggest a need for educational efforts about the final rule.

- How much additional funding will be needed.
- Departmental priorities for allocating funding and generally how it decides which requests to approve.

Proposed Trailer Bill Language – HCBS Policy Directives. The federal final rule was published in early 2014 and states are required to submit their transition plan describing how they will bring programs into compliance with the regulations by March 2019. The state submitted its revised transition plan to CMS in November of 2016. The Administration has proposed trailer bill language that will allow them to issue policy directives in advance of emergency regulations in order to align state and federal regulations prior to the implementation deadline. Last year, the Administration proposed trailer bill language expressing the Legislature’s intent to enact Legislation to implement changes necessary to comply with the HCBS regulations.

Stakeholder Proposals.

- The Lanterman Coalition. Urges the Legislature to prevent the loss of federal funds that would result from non-compliance with waiver requirements.
- The Disability Services Association requests trailer bill language that facilitate a decision-making process when requirements of one agency, i.e., community-care licensing, conflicts with the waiver requirements.
- Disability Rights CA are concerned that federal regulations could be repealed and suggest adding key elements of the regulations into the Lanterman Act, especially as they relate to person-centered planning and setting requirements related to consumer choice.

Questions:

For Nancy Bargmann, DDS

- *Briefly present your proposed trailer bill.*

For Sonja Petek, LAO

- *Briefly present your concerns about the status of HCBS compliance.*

For Catherine Blakemore, DRC

- *Briefly present your concerns and proposal.*

⁵ The Lanterman Coalition consists of the following organizations: Association of Regional Center Agencies; Autism Business Association; California Disability Services Association; California Foundation for Independent Living Centers; California Respite Association; California State Council on Developmental Disabilities; California Supported Living Network; Cal-TASH; Disability Rights California; Easter Seals; Family Resource Centers Network of California; Infant Development Association of California; ResCoalition; Service Employees International Union; SoCal Association of People Supporting Employment First; Society of California Care Operators, Inc., The Alliance; and The ARC and UCP California.

For Marty Omoto, California Person Centered Advocacy Partnership

- *What is your perspective on the progress toward HCBS compliance?*

For Barry Jardini, DSA

- *Briefly present your proposal.*

Staff Comments and Recommendations: While it is important that the department has all the tools necessary to ensure the continued receipt of federal funds, it is also important that the requested authority to issue “policy directives” does not serve as a substitute for the statutory or regulatory process. Hold open for further discussion.

ISSUE 21: Regional Center Purchase-of-Services - Update on Previous Actions - Competitive Paid Employment Incentives and Paid Internships – Proposed Trailer Bill Language: Paid Internships for 18 to 22 Year Olds

Background. Both state and federal law has moved toward greater emphasis on work opportunities in integrated and competitive settings for persons with developmental disabilities. AB 1041 (Chesbro), Chapter 667, Statutes of 2013, established an “employment first” strategy, making integrated competitive employment the prioritized goal in the IPP process and emphasizing training and internship programs that lead to this goal. At the federal level, the 2014 Workforce Innovation and Opportunities Act (WIOA) stresses competitive paid employment and associated training and supports.

In February 2015, the departments of Education, Rehabilitation and Developmental Services entered into a settlement agreement with Disability Rights California to develop a state blueprint for competitive integrated employment. The draft blueprint was published in November 2016 and the final blueprint is expected to be published in the summer of 2017. The blueprint focuses on moving toward models of competitive integrated employment that pay a livable wage, expanding capacity and the number of supported employment providers, and phasing out programs that pay sub-minimum wages that are currently allowed under federal and state laws, under specified conditions, for people with disabilities.

Finally, the Developmental Services Task Force, led by the California Health and Human Services secretary, has formed a workgroup to examine the status of consumer employment and make recommendations for improvement. The workgroup has met three times and is in the process of developing a list of recommendations for the full task force to consider for future action.

ABX2 1 provided \$29 million (\$20 million General Fund) for the department to establish a competitive integrated employment (CIE) program that would accomplish the following:

Competitive Paid Employment Incentives – According to the department, guidelines were developed collaboratively with input from various stakeholders during two statewide meetings and other means. The guidelines were sent to regional centers on August 5, 2016. The department is statutorily-required to provide, at the May Revision, the results of a provider survey regarding resulting employment placements.

Paid Internships – According to the department, guidelines were developed collaboratively with input from various stakeholders during two statewide meetings and other means. The department developed and sent guidelines to regional centers on July 24, 2016. The department is statutorily-required to provide, at the May Revision, a description of the implementation of the paid internship program.

Trailer Bill Proposal - Paid Internships for 18 to 22 Year Olds. The Administration has proposed trailer bill language (attached) to exempt 18 to 22 year olds from the provisions of WIC 4648.55 (a) if the consumer is still receiving educational services and participating in a paid internship.

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

The Administration argues the proposed trailer bill language is necessary to allow individuals who, pursuant to their IPP, express a desire to and could benefit from an internship program.

Stakeholder Proposals.

Disability Services Association requests that the proposed trailer bill language be expanded to also allow regional centers to purchase other employment services, if a consumer aged 18 to 22 has completed a paid internship and is ready to transfer into paid employment if necessary supports are provided.

Questions.

For Nancy Bargmann, DDS

- *Briefly present your proposal.*

For Barry Jardini, DSA

- *Briefly present your proposal.*

For Aaron Carruthers, SCDD

- *As the sponsor of the Employment First legislation, how does the State Council see its role in measuring progress, especially in light of how these new resources improve access to, and readiness for, competitive integrated employment?*

Marty Omoto, California Person Centered Advocacy Partnership

- *What is your perspective on how well these proposals will improve access to, and readiness for competitive integrated employment?*

Staff Comments and Recommendations. Hold open for further discussion.

ISSUE 22: Regional Center Purchase-of-Services - Update on Previous Actions - Special Session Rate Enhancement Updates – Proposed Trailer Bill Language: Service Rate Update - PROPOSED CONSENT

\$287 million General Fund was provided in the 2015-16 special session related to healthcare. AB 1606 appropriated an additional \$186 million in reimbursements. Specifically, the following was provided:

Community Services Direct Care Staff Wage Increase. \$294.8 million (\$169.5 million General Fund) for a rate increase, as determined by the department, for enhancing wages and benefits for community services staff who spend a minimum of 75 percent of their time providing direct care. Rate increase applies only to services where rates are set by the department or through negotiations between regional centers and service providers, supported living services, and vouchered services. The department surveyed providers as the basis for rate increases, and provided notice to the regional centers of those rate increases on June 24, 2016. The rate increase was the same for all providers within each service category and comparable across service categories based on the surveyed providers' reported costs for direct care staff employees. Funds were allocated to the regional centers for this purpose in August of 2016.

Provider Administrative Costs. \$17.3 million (\$9.9 million General Fund) for administrative costs for the providers described above. The department surveyed providers as the basis for rate increases, and provided notice to the regional centers of those increases in June 2016 for the new rates that were effective July 1, 2016. The rate increases were the same for all providers within each service category and comparable across service categories, based on the surveyed providers' reported administrative costs. Funds were allocated to regional centers in August 2016.

Supported Living and Independent Living Services. \$34.3 million (\$18 million General Fund) for a five percent rate increase. The department notified regional centers of this increase in June 2016, for rates effective July 1, 2016.

In and Out-Of-Home Respite Services. \$16.4 million (\$10 million General Fund) for a five percent rate increase. The department notified regional centers of this increase in June 2016, for rates effective July 1, 2016.

Transportation Services. \$13.9 million (\$9 million General Fund) for a five percent rate increase. The department notified regional centers of this increase in June 2016, for rates effective July 1, 2016.

Supported Employment. \$10.9 million (\$8.5 million General Fund) to restore rates to the 2006 level. The department notified the regional centers of this increase in June 2016, for rates effective July 1, 2016.

Intermediate Care Facilities for the Developmentally Disabled (ICF-DDs). \$24 million (\$12 million General Fund) for a five percent rate increase for Intermediate Care Facilities for the Developmentally Disabled (ICF-DDs). This rate increase was effective August 1, 2016. Funding for these programs is in the Department of Health Care Services budget.

Background. On June 16, 2015, the Governor convened a special session of the Legislature to consider and act upon legislation related to the managed care organization tax and to "increase oversight and the effective management of services provided to consumers with developmental

disabilities through the regional center system,” among other provisions. AB 2X 1 (Committee on the Budget), Chapter 3, Statutes of 2016, Second Extraordinary Session, which included the rate increase described above, was signed into law on March 1, 2016. This followed multiple years of extensive testimony about the impact of rate freezes on the quality and availability of community resources and regional center case management services, particularly on the ability of regional centers and providers to recruit and retain quality staff.

Reporting on Implementation. The department is required to survey of providers and regional centers to determine how these rate increases were used. Failure of regional centers and providers to report will result in the forfeiture of the funds. The department must report back to the Legislature regarding the implementation of rate increases in the May Revision.

Legislative Analyst’s Office. The LAO argues that the targeted nature of the rate increases has required a significant amount of administrative work of the part of the department, regional centers and service providers. According to the LAO, based on its discussions with the department and provider organizations, completion of the vendor survey will be administratively burdensome; many providers are unaware of the reporting requirement; and smaller vendors may have difficulty in collecting the required information. Additionally, the LAO argues that the currently required limitation on using state funds for administrative costs for providers and regional centers should be sufficient to ensure adequate funding goes to direct care staff wages and benefits. The LAO recommends the Legislature consider statutory “clean-up” to ease reporting and enforcement. Specifically, the LAO recommends the Legislature consider the following:

- Relaxing the rule that providers forfeit the increase if they fail to report how it was implemented.
- Remove the survey reporting requirement altogether or extend the October 1, 2017 deadline.
- Consider a more streamlined rate increase process in the future, at least until rate reform is addressed.

Proposed Trailer Bill Language - Service Rate Update. The rate for supported employment services is statutorily set at \$34.24 per hour. The maximum rate for vouchered community-based training services is statutorily set at \$13.47 per hour. In order to determine the new rate amount for these services and not exceed the allocated funding level, the department first needed to survey providers, which could not be done prior to the passage of AB2X 1. The proposed trailer bill language updates the statute to reflect the higher amounts of \$36.57 per hour for supportive employment services and \$14.99 per hour for vouchered community-based training services. CONSENT

Questions:

For Nancy Bargmann, DDS

- *Briefly describe how these funds were allocate and the proposed trailer bill language.*

For Sonja Petek, LAO

- *Briefly describe your concerns, and proposed improvements, to the methodology for allocating and reporting on utilization of these funds.*

Staff Comments and Recommendation. Adopt proposed trailer bill language as placeholder on consent.

ISSUE 23: Regional Center Purchase of Services - Unanticipated Rate Adjustments and Health and Safety Waiver Requests

Background. There are two ways the department may increase an existing service provider’s rate –a health and safety waiver or an unanticipated rate adjustment. These are described below.

Health and Safety Waiver Requests. State law authorizes the department to approve exemptions to rate freezes when necessary to protect the health and safety of a specific consumer.⁶ A provider seeking this waiver must first apply to the regional center, who then may submit the request to the department, along with pertinent information including capacity, proposed rate and supporting justification, an explanation of the health and safety basis of the request and ramifications of a denial, and a signed statement from the regional center executive director that he/she concurs with the information and request being submitted. A request must be submitted for each individual consumer, although Association of Regional Center Agencies (ARCA) argues that different statutes may conflict on this point and that guidance from the department has differed over time. The department has received a total of 143 such requests, impacting 2,865 consumers, in fiscal years 2013-14, 2014-15 and 2015-16, as shown in the chart below. Of these, 50 were related to local minimum wage ordinances in the Regional Center of the East Bay and San Andreas Regional Center catchment areas. According to the department, the average time it took to process these requests, once forwarded to the department from the regional center, was 76 days in 2013-14, 143 days in 2014-15, and 90 days in 2015-16. The department notes that some requests are expedited based on the nature of the health and safety risk to the consumer.

Health and Safety Waiver Requests⁷										
FY	Approved		Denied		Rescinded		Pending		Total	
	Requests	Consumers	Requests	Consumers	Requests	Consumers	Requests	Consumers	Requests	Consumers
2013-14	20	841	1	1	3	26			24	868
2014-15	24	54	19	1488	10	72			53	1614
2015-16	46	222	4	6	11	18	6	137	67	383
2016-17	13	16	5	457	2	3	48	2557	68	3033
Total	103	1133	29	1952	26	119	54	2694	212	5898

According to the department, the most common reasons for approvals of health and safety waiver requests include:

- To maintain consistency in staff/providers whose familiarity and expertise help maintain a consumer’s health and safety.
- To increase services and supports to allow the consumer to maintain safe, independent living, or to remain living in the family home.

⁶ Welfare and Institutions Code sections 4648.4(b), 4681.6, 4684.55, 4689.8, 4691.9 and 4691.9.

⁷ 2015-16 and 2016-17 data as of March 9,2017.

- To increase services and supports due to changes in the consumer's medical condition and/or behavioral challenges and mitigate identified health and safety risks.
- Lack of available alternative resources to serve the consumer due to his or her significant behavioral and/or mental health challenges.

It has been reported by ARCA that one regional center is expecting upwards of 4,000 individual health and safety waiver requests for transportation services. Some providers report that some regional centers have advised them not to submit a health and safety waiver request related to local minimum wage issues as the department will not approve them. However, the department has approved them in the past and the January 6, 2017 instructions from the department to regional centers lay out specific directions for such submissions.

Unanticipated Rate Adjustment Requests. Unanticipated Rate Adjustments are guided by Title 17 regulations and apply only to community-based day programs and in-home respite providers. These adjustments can be applied for by eligible providers directly to the department and are not required to first submit through the regional center. Adjustments can be requested for mandated service adjustments due to changes in, or additions to, existing statutes, laws, regulations or court decisions. The chart below summarizes the number of rate adjustment requests made and approved, and the total associated expenditures for fiscal years 2013-14, 2014-15 and 2015-16. Of the 803 requests received in 2014-15, 439 were submitted as a result of the increase in the state minimum wage, effective July 1, 2014, resulting in 257 approved requests. The following chart provides a summary of unanticipated rate adjustments in recent years.

Summary of Unanticipated Rate Adjustment Requests

	Submitted	Approved	Expenditures for Approved Requests	Denied
FY 2012-13 Totals	6	0	\$0	6
FY 2013-14 Totals	16	7	\$28,213	9
FY 2014-15 Totals	803	265	\$75,406,156	538
Grand Total	825	272	\$75,434,369	553

Stakeholder Proposals.

The Lanterman Coalition urges actions to save community-based services that otherwise would close and would cost the state more to replace. The coalition points to rate freezes, with only sporadic and targeted increases, while mandate-driven and location-specific costs continue to rise without a mechanism for addressing. They argue that, while all program are hard-pressed, some are far closer to the brink of failure than others. They further argue that when a program closes and consumers are transferred to other existing programs or when new programs are created for them, the cost of the service is often significantly higher than if the original program had been stabilized. They recommend

providing the department with the authority to permit programs on the brink of collapse to apply for relief and to negotiate rate increases sufficient to stabilize the program, at rates no higher than the cost of replacement programs, including any transportation costs.

ARC and UCP California Collaboration have submitted specific language they would like adopted which would lay out a process for determining when a rate increase is warranted due to a program's likelihood of closure within six months due to inadequate rates and would require that all information related to this process will remain confidential until the program informs consumers, families, employees or the public of a program termination; or the department determines a rate increase is necessary or unnecessary.

ARCA seeks greater rate flexibility to meet community and individual needs. They note that in 2015-16, of the 169 residential homes that closed, 38 percent cited rate inadequacy or other fiscal reasons as the cause; and of the 39 day and work programs that closed, 45 percent cited rate inadequacy or other fiscal reasons as the cause. They further argue the costs of providing replacement services often exceed the likely cost to keep struggling programs viable. Like the ARC Ca and UCP Collaboration, ARCA supports providing the department with authority to grant rate increases to programs who would otherwise close due to fiscal reasons.

Disability Rights CA recommends that the median rate exception process should be modified to reflect the immediate needs of persons in crisis.

Questions.

For Nancy Bargmann, DDS

- *Describe the difference between a health and safety waiver and an unanticipated rate adjustment request.*
- *Looking at the Health and Safety Waiver Requests chart, the number of requests and impacted consumers ranges significantly from year to year. For example, total requests in 2013-14 are 24, impacting 868 consumers; it rises to a high of 143 programs, impacting 2865 consumers in 2015-16; and drops by more than half to 68 programs, impacting a higher 3033 consumers, last year. What do you think drive these numbers? What do the numbers look like, to date, in the current year?*
- *Similarly, for the Summary of Unanticipated Rate Adjustment Requests, the number submitted in 2012-13 was six, none of which were approved; and the number grew to 803 in 2014-15 (the last year for which data was provided), of which 538 were denied. What drive these numbers? The number of denials is notable. What do you think accounts for the number of programs who lack clarity as to what the criteria might be for approval of this kind of request? What do budget year and current year numbers look like?*

For Barry Jardini, Lanterman Coalition and DSA

- *Briefly describe the Lanterman Coalition proposal regarding programs at risk.*

For Greg deGiere, The ARC California

- *Briefly describe your proposed language associated with the Lanterman Coalition proposal.*

For Catherine Blakemore, DRC

- *Briefly describe your proposal regarding median rate exceptions.*

Staff Comments and Recommendation. Informational Item. No action is necessary.

ISSUE 24: Regional Center Purchase-of-Services - Update on Previous Actions - Rate Study

The department received \$3 million General Fund in SB 826 (Leno), Chapter 23, Statutes of 2016 to contract for a service provider rate study and to provide recommendations for a new rate setting methodology. The study and accompanying recommendations are due to the Legislature by March 1, 2019. The study is required to provide an assessment of current methods for setting rates, including whether they provide an adequate supply of vendors; a comparison of the fiscal effects of alternative rate-setting methodologies; how vendor rates relate to consumer outcomes; and an evaluation of the current number and types of service codes and recommendations for restructuring service codes. Additionally, the rate study request for proposal (RFP) requires the chosen contractor to provide a rate maintenance process and with a multi-year impact. The department released its request for proposals for the rate study on February 9, 2017, with a deadline to submit proposals by April 3, 2017. The chosen contractor will be required to provide a documented rate maintenance process and the multiyear impact.

Background. Rates paid to community-based providers for services and supports provided to persons with a developmental disability are established through multiple methodologies, as shown below.

Rates Paid to Regional Center Vendors
Department of Developmental Services set statewide rates established pursuant to cost statement, statute, or regulation.
Department of Health Care Services Schedule of Maximum Allowance.
Negotiated Rates: a rate negotiated up to the applicable median rate for the regional center catchment area, or the current statewide median rate, whichever is lower.
Department of Social Services rates.
Standard Rate Schedule, established by the regional center based upon the cost-effectiveness of providing specific transportation services.
Regional Center set mileage reimbursement set at a per mile rate not to exceed the travel rate paid by the regional center to its own employees.
Usual and Customary Rates is a rate regularly charged by a vendor for a service that is used by both regional center consumers and where at least 30 percent of the recipients of the given service are not regional center consumers.

Prior to ABX2 1, most community-based service providers had not received a rate increase since 2006, except in limited circumstances, such as changes in the statewide minimum wage. Residential care providers (ARM), day programs, and traditional work programs received a three percent rate reduction in February of 2009, which expired in July of 2012. These providers received an additional rate reduction of 1.25 percent in July 2010, which expired in July 2013. Since 2008, providers whose rate is set through negotiations with individual regional centers have had their rates frozen and the rates for new providers were limited to the median rate for the year 2007. These providers were also subject to the three percent and 1.25 percent rate reductions, and subsequent expiration, discussed above. Supported work providers, who rate is set in statute, received a 24 percent increase in 2006, but their rate was subsequently reduced by 10 percent in 2008.

Legislative Analyst’s Office. The LAO agrees with most parties that the current rate-setting process is complicated and results in insufficient and uneven rates. The LAO finds the requirement for a rate

maintenance process in the RFP to lack clarity and suggests the Legislature request the department to work with the prospective bidders to include the role of economic and policy changes in rate maintenance activities. Specifically, the LAO recommends that rate maintenance could include:

- Options for how costs can be reduced in recessionary times, while minimizing adverse impacts on consumer outcomes.
- Options for how funding could be restored or a return to a regular rate maintenance schedule following the implementation of cost-saving measures.
- Options for ongoing rate adjustments based on market conditions.
- Options for implementing rate changes associated with minimum wage increases and other labor laws.
- Options for how rates can adjust to policy changes, including recommendations for incorporating flexibility into the rate structure.

Stakeholder Proposals.

The Lanterman Coalition seeks assurances that the state will select a consultant for the rate study who will incorporate the actual costs of delivering quality community services and (1) provide transparency in the process and a continued commitment to keeping the community closely apprised of the study's progress, (2) extensive community input opportunities with a dedicated stakeholder committee to oversee the consultants' work, and (3) that principles for the new rate structure are developed with the disability community

Questions:

For Nancy Bargmann, DDS

- *Briefly describe the status of the rate study.*

For Sonja Petek, LAO

- *Briefly describe your recommendations regarding the rate study.*

Staff Comment and Recommendation. Informational Item. No action is necessary.

ISSUE 25: Regional Center Purchase-of-Services - Update on Previously Actions - Disparities

Background. The department and regional centers are statutorily-required to annually collaborate to compile data in a uniform manner relating to POS authorization, utilization and expenditure by regional center and by specified demographics including: age, race, ethnicity, primary language spoken by consumer, disability, and other data. This information is also to include data on individuals eligible for, but not receiving, regional center services. Regional centers are required to hold public hearings on this data and the department is required to provide oversight, through their contract agreements with the regional centers, by requiring specified activities and establishing annual performance objectives.

Numerous legislative hearings and press accounts have discussed a significant level of disparities in service delivery among racial and ethnic groups and between regional centers. Multiple bills have been signed into law to address these disparities through multiple strategies including, governing board training; data collection and sharing; improved departmental oversight of regional centers; and requirements that regional centers communicate and provide written materials in multiple languages. Despite these efforts, significant disparities remain.

AB 2X 1 provided \$11 million General Fund to address pay differentials supporting bilingual service coordinators at regional centers when fluency in the second language helps to address the language needs of the regional center's catchment area; and for implementation of recommendations and plans to help reduce disparities in the purchase-of-service expenditures and to encourage the development and expansion of culturally and linguistically appropriate services. Activities funding may include, but are not limited to, paying differentials supporting direct care bilingual staff of community-based service providers, parent education programs, cultural competency training, and outreach.

On July 26, 2016, the department sent guidelines to regional centers regarding the submission of proposals to obtain funding to address identified areas of disparity. Subsequently, in August 2016, the department held four stakeholder meetings throughout the state to discuss and gather information on disparity issues. Additionally, each regional center was required to consult with stakeholders regarding activities that may be effective in addressing disparities in the receipt of regional center services and the regional center's proposed requests for the above-mentioned funding.

The department approved proposals from all 21 regional centers for activities to promote equity and reduce purchase of services disparities. Of the \$11 million, the department approved proposals ranging from \$1,500 to \$750,000. Activities funded include: electronic interpreter systems, translation of written materials, cultural training, group trainings in native languages, reduced caseloads, cultural competency staff training, cultural brokers and parent mentors, and outreach activities. By mid-March, the department anticipates approving additional regional center proposals that expand on previously approved proposals and/or that address language access issues.

The department will allocate funds in March 2017. Regional centers are statutorily-required to report to the department by May 31, 2016, on the implementation of approved proposals. Pursuant to AB 1606, the department will annually assess disparities data and report annually, beginning in April 2017.

Senate Committee on Human Services Oversight Hearing on Disparities. On Tuesday, March 14, 2017, the Senate will have the opportunity for a more focused discussion on this issue at a Senate Committee on Human Services informational hearing entitled: "Moving Toward Equity: Addressing Disparities in Services Provided by the Regional Center System."

Stakeholder Proposals.

Disability Rights CA and the Association of Regional Center Agencies both argue that ethnically diverse families are more likely to have been impacted by the suspension of services, such as camp and social recreation, and the reduced availability of respite services. They argue restoring camp and social recreation services and lifting the cap on respite may assist in addressing service disparities across racial and ethnic lines.

Questions.For Nancy Bargmann, DDS

- *Briefly describe the status of the disparities initiatives.*
- *How will the impact of these projects be measured?*
- *Given the struggle this system has encountered in meaningfully reducing disparities over many years of discussion, how does the department view its role in identifying and initiating strategies that have been proven successful?*

For Rick Rollins, ARCA

- *Briefly describe your proposal for funding recreation and respite programs to address the disparities issue.*

For Marty Omoto, California Person Centered Advocacy Partnership

- *What is your perspective on how to best address the disparities issue?*

For Aaron Carruthers, SCDD

- *What is your perspective on how to best address the disparities issue?*

Staff comments and recommendations. Informational Item. No action is necessary.

ISSUE 26: Regional Center Purchase-of-Services - Current Year Adjustments

AB2X 1 Savings. The budget identifies a \$14.3 million decrease (\$8.4 million General Fund decrease) in estimated expenditures of AB2X 1 funding, consistent with anticipated POS caseload and utilization expenditure decreases.

Purchase-of-Services Savings. The budget identifies a decrease of \$38 million (\$36.1 million General Fund decrease) due to the net difference of adjustments in all categories based on updated expenditure trends and increased federal reimbursements. The budget further proposes to shift \$27.2 million this amount to backfilled for increased developmental center costs.

Stakeholder Proposals.

ARCA proposes these funds instead be used for unmet community needs.

Questions:

For Nancy Bargmann, DDS

- *Briefly describe the current year adjustments.*

For Rick Rollins, ARCA.

- *Briefly describe how ARCA believes these POS saving should be utilized.*

Staff Comment and Recommendation. Hold open pending May Revision.

ISSUE 27: Regional Center Purchase-of-Services - Budget Year Proposals

Updated Caseload and Expenditure Projections. The budget proposes a \$290.7 million (\$268.2 million General Fund increase) to reflect an increase in all POS budget categories reflecting updated caseload and expenditure projections.

AB2X 1 Full-Year Costs. The budget proposes a \$14.3 million increase (\$8.4 million General Fund increase) to reflect the full-year costs associated with ABX2 1 implementation.

Best Buddies. The budget proposes a \$1 million General Fund decrease due to the removal of this one-time funding provided in the current year.

Minimum Wage Adjustments. The budget proposes a \$84.7 million increase (\$48 million General Fund increase) to reflect the impact of minimum wage increases, established through AB 10 (Alejo), Chapter 351, Statutes of 2013 and SB 3 (Leno), Chapter 4, Statutes of 2016, on minimum wage community-based workers. The state-mandated hourly minimum wage increased from \$10.00 to \$10.50, effective January 1, 2017; and will increase to \$11.00, effective January 1, 2018. SB 499 (Stone) and AB 279 (Holden) have been introduced to address this issue.

Stakeholder Proposals.

Lanterman Coalition and ARCA support funding required for complying with federal, state, and local mandates, such as a local minimum wage. According to these stakeholders, the state covers some of these costs through often cumbersome and expensive procedures, others go unfunded; and they ask for the adoption of a simple mechanism to make providers whole for these mandated costs.

Questions.

For Nancy Bargmann, DDS

- *Briefly describe the budget year proposal.*

For Steve Miller, Lanterman Coalition

- *Briefly present your proposal regarding federal, state and local mandates.*

Staff comments and recommendations. Hold open pending May Revision.

ISSUE 28: Regional Center Purchase-of-Services - Safety Net Development – Proposed Trailer Bill Language: EBSH and CCH Facilities**Presenters:**

Nancy Bargmann, Department of Developmental Services
Kris Cook, Department of Finance

Status of new model development. Over the last few years, the department has been authorized to develop new community models of services intended to address the needs of persons with significant medical and/or behavioral needs, including persons moving from a developmental center, psychiatric facility or Institutions for Mental Disease (IMD). These include:

Enhanced Behavioral Homes. W&I Code Section 4684.80 to 4684.87 provided the department authority to promulgate emergency regulations to develop Enhanced Behavioral Supports Homes. Through 2016-17, the department approved a total of 27 Enhanced Behavioral Supports Homes with Community Placement Plan funding. .

Delayed Egress/Secured Perimeter Homes.

These facilities are not required to be eligible for federal funding, as this model continues to be ineligible under federal regulations. However, the Legislature capped the number of total allowable beds under this model at 150 statewide; required a minimum of 50 beds be available for persons who are designated as incompetent to stand trial (IST) pursuant to Section 1370.1; generally limited the number of beds per home to six, except one half of the facilities serving IST placements may be up to 15 beds.

Community Crisis Homes. The department is authorized to develop facilities with a maximum capacity up to eight beds each. At this time, the department approved the development of 12 four-bed homes using Community Placement Plan funding.

Transitional Homes. The department approved the development of three homes through Community Placement Plan funding.

Adult Residential Facility for Persons With Special Health Care Needs (ARFPSHN) with Behavioral Supports. These are Department of Social Services licensed and Department of Developmental Services certified residential program, in the community, for adults with developmental disabilities who are medically fragile and require 24/7 licensed nursing supports, and also require behavioral supports.

Placements of Last Resort. The California Health and Human Services Agency’s report entitled “Plan for the Future of Developmental Centers”, released in January 2014, made recommendations as to what should be developed to ensure the needs of persons currently living in developmental centers, or those with similar needs, would be met in the community once the developmental centers had closed. Among these recommendations was the development of crisis services to immediately meet the needs of persons in crisis and the availability of “placements of last resort.”

WIC 4474.15 requires the department to submit an update at the May Revision on how it will provide crisis service and how the state will maintain its role in providing residential services to those whom

private sector vendors cannot or will not serve. As part of this plan, the department must assess the option of expanding the community state staff program to allow the department's employees to serve as regional crisis management teams that provide assessment, consultation, and resolution for persons with developmental disabilities in crisis in the community.

Proposed Trailer Bill Language – Extend Exemption From Requirement That Facilities Be Eligible For Federal Funding To Enhanced Behavioral Homes (EBSH) And Community Crisis Homes (CCH) That Utilize Delayed Egress/Secured Perimeters.

Proposal. The proposed language will amend Welfare and Institutions Code Sections 4648.80(a) and 4698(c)(1), to allow DDS to approve, at the discretion of the director, EBSH and CCHs to be developed with the utilization of delayed egress devices and secured perimeters, thus making them ineligible for federal HCBS funding. Current law caps the size of licensed homes with delayed egress devices and secured perimeters at six beds, with the exception of a limited number of homes for individuals designated as incompetent to stand trial. CCHs, however, may be licensed for up to eight beds. Therefore, the proposed trailer bill language would also create an exception to the Health and Safety Code to allow DDS to approve up to one third of CCHs with delayed egress devices and secured perimeters to exceed the six-bed limit.

Background: WIC authorizes the department to develop enhanced behavioral supports homes (EBSH) and community crisis homes (CCH) through the use of Community Placement Plan funding. The department promulgated emergency regulations for EBSH and the permanent regulations are close to becoming final. The department is currently in the process of promulgating emergency regulations to implement the development of CCH.

The department argues that these two models of care are necessary components of the continuum of residential options for individuals with developmental disabilities in California. They will form part of the "safety net", being developed to provide services for individuals with challenging service needs, particularly given the pending closure of state developmental centers. DDS anticipates also serving individuals who would otherwise be placed in institutions for mental disease or out-of-state, both of which are ineligible for federal reimbursements.

The current EBSH and CCH statutory authority requires the services qualify for federal HCBS funding. The majority of the EBSH and CCHs currently being developed statewide will qualify for federal HCBS funding; however, DDS and regional centers recognize a need to develop a limited number of homes with delayed egress devices and secured perimeters to meet the needs of individuals with developmental disabilities with the most complex service needs and serve as an effective option within California's safety net.

Stakeholder Proposals.

Disability Rights CA requests clarity that the proposed trailer bill language does not increase the total cap on delayed egress and secured perimeter facilities and to limit the total number of community crisis homes that can also be delayed egress and secured perimeter homes.

Disability Rights CA also argue that a range of supports, not just crisis services and residential placements, is necessary for a well-functioning safety net system; that services are needed to support consumers who are involved with the criminal justice system; the state should continue its role in operating or overseeing small, time-limited crisis homes.

Questions:For Nancy Bargmann, DDS

- *Briefly describe your proposed trailer bill.*
- *Given how restrictive settings have been over-utilized historically, how will the department ensure that placements in these facilities are appropriate, that the services and supports provided in these facilities are focused on preparing an individual to move back to the community as soon as appropriate, and that the necessary services and supports are available or being developed to support a move back to the community?*
- *What other resources are being developed as part of the safety net to support persons in the community to prevent placements into these more restrictive settings?*
- *What role will state run settings or services play in the safety net?*

For Kathleen Miller, Sonoma Developmental Center Parent Association

- *What components do you think are important in building a successful safety net and how do these new models address your concerns?*

For Catherine Blakemore, DRC

- *What components do you think are important in building a successful safety net and how do these new models address your concerns? Present your concerns about the proposed trailer bill language.*

Staff Comments and Recommendations: Hold proposed trailer bill language open pending further discussion.

ISSUE 29: Regional Center Purchase-of-Services - Community Placement Plan (CPP) Funding – Proposed Trailer Bill Language: CPP Funds

The budget continues the \$68 million (\$43 million General Fund) in baseline funding for regular CPP and provides \$26 million (\$19 million General Fund) for facility-specific CPP.

Background. Since 2002-03, the budget has included funding (regular CPP) for regional centers to develop community services and supports necessary for persons moving from developmental centers and to deflect persons living in the community from developmental center placements. As specific developmental centers have identified for closure, additional funding has been provided specifically to accelerate the development of community resources for persons in those centers.

The chart below shows the status of residential capacity for persons moving from developmental centers using CPP funds, as of January 31, 2017.

Department of Developmental Services

DEVELOPMENT OF RESIDENTIAL CAPACITY FOR CONSUMERS TRANSITIONING FROM DEVELOPMENTAL CENTERS SUBJECT TO CLOSURE
Online Report

TABLE 1A: ALL DEVELOPMENTAL CENTERS

Developmental Center	Total Approved Start-Up Projects ¹		Number of Projects in Each Stage of Development						Licensed, Vended and Certified ⁶	
			Pre-Acquisition ²	In Escrow ³	Acquired and Under Renovation ⁴		Pending Licensure ⁵			
	Projects	Capacity	Projects	Projects	Projects	Capacity	Projects	Capacity	Projects	Capacity
FDC - Fairview	78	285	39	9	16	56	2	8	12	41
PDC - Porterville	34	162	18	10	1	5	1	4	4	18
SDC - Sonoma	119	452	41	5	50	195	4	17	19	57
TOTAL	231	899	98	24	67	256	7	29	35	116

Source: DDS analysis of Regional Center information provided as January 31, 2017. Status reports may lag status changes by 30 to 60 days.

Notes: Homes developed prior to the Community Placement Plan process may have additional capacity for Developmental Center (DC) consumers. Additional capacity in some homes has been encumbered for consumers in the community. Includes 10 Supported Living Services (SLS) projects, which do not have a specific capacity.

¹ All currently active start-up projects related to DC closure.

² Projects have been approved and are in the Request for Proposals process or actively searching for a property/site.

³ Properties are in escrow to purchase a residential development.

⁴ Properties have been acquired and are undergoing renovation/rehabilitation.

⁵ Properties have completed renovation/rehabilitation and are in the process of obtaining a license, vendor and/or certification.

⁶ Properties are completed and currently serving or able to serve consumers.

The chart below identifies the proposed funding for these CPP activities in the budget year.

Community Placement Plan (CPP) 2017-18 Funding Summary

	Sonoma	Fairview	Porterville	Regular CPP	Total
Operations	\$3,616,000	\$1,212,000	\$606,000	\$15,265,000	\$20,699,000
Purchase of Services					
Start-Up ¹	\$0	\$0	\$0	\$27,265,000	\$27,265,000
Assessment ²	\$0	\$0	\$0	\$1,500,000	\$1,500,000
Number of Consumers	0	0	0	XXX	XXX
Placement ³	\$13,322,000	\$4,570,000	\$2,352,000	\$22,824,000	\$43,068,000
Number of Consumers	71	34	18	145	268
Deflection ⁴	\$0			\$1,000,000	\$1,000,000
Number of Consumers	0			XXX	XXX
Total	\$16,938,000	\$5,782,000	\$2,958,000	\$67,854,000	\$93,532,000

¹Start-Up – These expenditures are related to development of new facilities, new programs, and program expansion.

²Assessment – These expenditures are for individualized and comprehensive identification of consumer supports and services needed for stabilized community living.

³Placement – These expenditures are for the phase-in of consumers to community settings based on consumer-specific information.

⁴Deflection – These expenditures are for related services needed to deflect the admission of individuals into developmental centers.

For the developmental center-specific CPP funding, all start-up and assessment activities will be completed in the current year, resulting in a \$53.1 million decrease (\$55.3 million General Fund decrease) in the budget year.

Legislative Analyst’s Office. The LAO agrees that there may a need for increased community resources for a number of reasons, including changing needs of consumers related to diagnosis and age. However, the LAO believes that consideration of funding these changing needs should be made apart from CPP funding decisions. Further, the LAO argues that when considering community funding needs, the Legislature should evaluate alternative funding mechanisms. Finally, the LAO suggests that the Legislature could require the department to conduct an assessment of where community resources are insufficient prior to requesting additional funding to address these gaps in service.

Proposed Trailer Bill Language – Community Placement Plan Funds.

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

Background. WIC Section 4418.25 requires the department to establish policies and procedures for the development of an annual community placement plan by regional centers. The CPP is designed to enhance the capacity of the community service delivery system and to reduce the reliance on the use of

developmental centers other restrictive living environments by providing funding to the regional centers for the development of a variety of resources. These resources include residential development, initial placement costs, transportation, day program services, and mental health and crisis services.

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

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

Stakeholder Proposals.

Disability Rights CA seeks to modify the proposed trailer bill language to give priority to proposals that create resources that help maintain individuals in their current home, such as mobile crisis support, wrap-around services, or enhanced rates or staffing.

Questions.

For Nancy Bargmann, DDS

- *Briefly describe your proposed trailer bill language.*
- *How does the process you describe involve local communities in the identification of unmet needs that these funds could address?*
- *How will the department measure success of funded projects in meeting goals?*

For Sonja Petek, LAO

- *Briefly present your perspective on this proposal.*

For Aaron Carruthers, SCDD

- *The State Council also has funding for community development. Do you see a way that the council's use of their funds, and the use of program development funds can complement each other in identifying new models and addressing unmet needs in the community?*

For Catherine Blakemore, DRC

- *Briefly present your proposal to modify the proposed trailer bill language?*

Staff Comments and Recommendations. Leave open pending further discussions.

PANEL 5: Federal Issues - ISSUE 30**Nancy Bargmann, Department of Developmental Services****Kris Cook, Department of Finance****Sonja Petek, Legislative Analyst's Office****Aaron Carruthers, State Council on Developmental Disabilities****Catherine Blakemore, Disability Rights California****ISSUE 30: Federal Issues**

As the nation ushers in a new President and Congress, concerns have been raised as to the impact these changes may have on the amount and nature of federal funding that supports many programs in California and federal rules and regulations that guide how services and supports are provided. The State Council on Developmental Disabilities and Disability Rights California rely almost exclusively on federal funding. Based on the Governor's budget for 2017-18, federal funding provides 39 percent of the community services budget, and 26 percent of the developmental center budget. Receipt of these funds is contingent upon compliance with various federal regulations, including the new HCBS waiver rules discussed earlier in this agenda. New programs, such as the Self-Determination Program, are currently pending federal approval.

Questions:

For DDS, SCDD, DRC

- *If federal rules and regulations are relaxed or eliminated relative to the provision of services and supports, what steps do you see as important to protect the rights and well-being of persons with developmental disabilities in California?*
- *If funding is reduced significantly, what options will need to be considered to best protect the entitlement in California?*