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WELFARE AND INSTITUTIONS CODE - WIC

DIVISION 4.5. SERVICES FOR THE DEVELOPMENTALLY DISABLED [4500 - 4885] (*Division 4.5 added by Stats. 1977, Ch. 1252.*)

CHAPTER 6. Development and Support of Community Facilities and Programs [4670 - 4698.1] (*Chapter 6 added by Stats. 1977, Ch. 1252.*)

ARTICLE 4. Services and Supports for Persons Living in the Community [4685 - 4689.8] (*Heading of Article 4 amended by Stats. 1992, Ch. 1011, Sec. 20.*)

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

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

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

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

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

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

(3) (A) To ensure that these services and supports are provided in the most cost-effective and beneficial manner, regional centers may utilize innovative service-delivery mechanisms, including, but not limited to, vouchers; alternative respite options such as foster families, vacant community facility beds, crisis child care facilities; group training for parents on behavioral intervention

techniques in lieu of some or all of the in-home parent training component of the behavioral intervention services; purchase of neighborhood preschool services and needed qualified personnel in lieu of infant development programs; and alternative child care options such as supplemental support to generic child care facilities and parent child care cooperatives.

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

(i) The use of group training for parents on behavioral intervention techniques in lieu of some or all of the in-home parent training component of the behavioral intervention services.

(ii) The purchase of neighborhood preschool services and needed qualified personnel in lieu of infant development programs.

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

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

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

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

(Amended by Stats. 2009, 4th Ex. Sess., Ch. 9, Sec. 17. Effective July 28, 2009.)

4685.1. (a) When a minor child requires a living arrangement outside of the family home, as determined in the individual program plan developed pursuant to Section 4646 and Section 4648, the regional center shall make every effort to secure a living arrangement, consistent with the individual program plan, in reasonably close proximity to the family home.

(b) When the parents or guardian of a minor child requests that an out-of-home living arrangement for a minor child be in close proximity to the family home, and when such a living arrangement cannot be secured by the regional center, the regional center shall include with the individual program plan a written statement of its efforts to locate, develop, or adapt appropriate services and supports in a living arrangement within close proximity to the family home and what steps will be taken by the regional center to develop the services and supports necessary to return the child to the family home or within close proximity of the family home. This statement shall be updated every six months, or as agreed to by the parents or guardians, and a copy shall be forwarded to the parents or guardians of the minor and to the director of the department.

(c) This section shall not be construed to impede the movement of consumers to other geographic areas or the preference of the parent or guardian for the placement of their minor child.

(Added by Stats. 1998, Ch. 1043, Sec. 12. Effective January 1, 1999.)

4685.7. (a) Contingent upon approval of a federal waiver, the Self-Directed Services Program (SDS Program) is hereby established and shall be available in every regional center catchment area to provide participants, within an individual budget, greater control over needed services and supports. The Self-Directed Services Program shall be consistent with the requirements set forth in this section. In order to provide opportunities to participate in the program, the department shall adopt regulations, consistent with federal law, to implement the procedures set forth in this section.

(b) For purposes of this section, all of the following definitions shall apply:

(1) "Financial management services" means a service or function that assists the participant to manage and direct the distribution of funds contained in the individual budget. This may include, but is not limited to, bill paying services and activities that facilitate the employment of service workers by the participant, including, but not limited to, federal, state, and local tax withholding payments, unemployment compensation fees, setting of wages and benefits, wage settlements, fiscal accounting, and expenditure reports. The department shall establish specific qualifications that shall be required of a financial management services provider.

(2) "Supports brokerage" means a service or function that assists participants in making informed decisions about the individual budget, and assists in locating, accessing and coordinating services consistent with and reflecting a participant's needs and

preferences. The service is available to assist in identifying immediate and long-term needs, developing options to meet those needs, participating in the person-centered planning process and development of the individual program plan, and obtaining identified supports and services.

(3) "Supports broker" means a person, selected and directed by the participant, who fulfills the supports brokerage service or function and assists the participant in the SDS Program. Specific qualifications shall be established by the department and required of a supports broker provider.

(4) "Waiver" means a waiver of federal law pursuant to Section 1396n of Title 42 of the United States Code.

(5) "Independence Plus Self-Directed (IPSD) Waiver Program" or "Self-Directed Waiver Program" means a federal waiver to the state's Medicaid plan to allow a person with developmental disabilities who needs or requires long-term supports and services, and, when appropriate, the person's family, greater opportunity to control their own health and well-being by utilization of self-directed services.

(6) (A) "Self-directed services" or "SDS" means a voluntary delivery system consisting of a defined and comprehensive mix of services and supports, selected and directed by a participant, in order to meet all or some of the objectives in their individual program plan. Self-directed services are designed to assist the participant to achieve personally defined outcomes in inclusive community settings.

(B) Self-directed services shall include, but are not limited to, all of the following:

(i) Home health aide services.

(ii) Supported employment and prevocational services.

(iii) Respite services.

(iv) Supports broker functions and services.

(v) Financial management services and functions.

(vi) Environmental accessibility adaptations.

(vii) Skilled nursing.

(viii) Transportation.

(ix) Specialized medical equipment and supplies.

(x) Personal emergency response system.

(xi) Integrative therapies.

(xii) Vehicle adaptations.

(xiii) Communication support.

(xiv) Crises intervention.

(xv) Nutritional consultation.

(xvi) Behavior intervention services.

(xvii) Specialized therapeutic services.

(xviii) Family assistance and support.

(xix) Housing access supports.

(xx) Community living supports, including, but not limited to, socialization, personal skill development, community participation, recreation, leisure, home and personal care.

(xxi) Advocacy services.

(xxii) Individual training and education.

(xxiii) Participant-designated goods and services.

(xxiv) Training and education transition services.

(C) The department shall include all of the services and supports listed in this paragraph in the IPSD Waiver Program application. Notwithstanding this paragraph, only services and supports included in an approved IPSD Waiver shall be funded through the SDS Program.

(7) "Advocacy services" means services and supports that facilitate the participant in exercising their legal, civil, and service rights to gain access to generic services and benefits that the participant is entitled to receive. Advocacy services shall only be provided when other sources of similar assistance are not available to the participant, and when advocacy is directed towards obtaining generic services.

(8) "Individual budget" means the amount of funding available to the participant for the purchase of services and supports necessary to implement an individual program plan. The individual budget shall be constructed using a fair, equitable, and transparent methodology.

(9) "Risk pool" means an account that is available for use in addressing the unanticipated needs of participants in the SDS Program.

(10) "Participant" means an individual, and, when appropriate, their parents, legal guardian or conservator, or authorized representative, who have been deemed eligible for, and have voluntarily agreed to participate in, the SDS Program.

(c) Participation in the SDS Program is fully voluntary. A participant may choose to participate in, and may choose to leave, the SDS Program at any time. A regional center may not require participation in the SDS Program as a condition of eligibility for, or the delivery of, services and supports otherwise available under this division.

(d) The department shall develop informational materials about the SDS Program. The department shall ensure that regional centers are trained in the principles of SDS, the mechanics of the SDS Program, and the rights of consumers and families as candidates for, and participants, in the SDS Program. Regional centers shall conduct local meetings or forums to provide regional center consumers and families with information about the SDS Program. All consumers and families who express an interest in participating in the SDS program shall receive an in-depth orientation conducted by the regional center prior to enrollment in the program.

(e) Prior to enrollment in the SDS Program, and based on the methodologies described below, an individual, and, when appropriate, their parents, legal guardian or conservator, or authorized representative, shall be provided in writing two individual budget amounts. If the individual, and, when appropriate, their parents, legal guardian or conservator, or authorized representative, elects to become a participant in the SDS Program, the individual shall choose which of the two budget amounts provided will be used to implement their individual program plan.

(1) The methodologies and formulae for determining the two individual budget amounts shall be detailed in departmental regulations, as follows:

(A) One individual budget amount shall equal 90 percent of the annual purchase of services costs for the individual. The annual costs shall reflect the average annual costs for the previous two fiscal years for the individual.

(B) One individual budget amount shall equal 90 percent of the annual per capita purchase of service costs for the previous two fiscal years for consumers with similar characteristics, who do not receive services through the SDS Program, based on factors, including, but not limited to, age, type of residence, type of disability and ability, functional skills, and whether the individual is in transition. This budget methodology shall be constructed using data available on the State Department of Developmental Services information system.

(2) Once a participant has selected an individual budget amount, that individual budget amount shall be available to the participant each year for the purchase of self-directed services until a new individual budget amount has been determined. An individual budget amount shall be calculated no more than once in a 12-month period.

(3) As determined by the participant, the individual budget shall be distributed among the following budget categories in order to implement the IPP:

(A) Community Living.

(B) Health and Clinical Services.

(C) Employment.

(D) Training and Education.

(E) Environment and Medical Supports.

(F) Transportation.

(4) Annually, participants may transfer up to 10 percent of the funds originally distributed to any budget category set forth in paragraph (3), to another budget category or categories. Transfers in excess of 10 percent of the original amount allocated to any budget category may be made upon the approval of the regional center. Regional centers may only deny a transfer if necessary to protect the health and safety of the participant.

(5) The regional center shall annually ascertain from the participant whether there are any circumstances that require a change to the annual individual budget amount. The department shall detail in regulations the process by which this annual review shall be achieved.

(6) A regional center's calculation of an individual budget amount may be appealed to the executive director of the regional center, or their designee, within 30 days after receipt of the budget amount. The executive director shall issue a written decision within 10 working days. The decision of the executive director may be appealed to the Director of Developmental Services, or their designee, within 15 days of receipt of the written decision. The decision of the department is final.

(f) The department shall establish a risk pool fund to meet the unanticipated needs of participants in the SDS Program. The fund shall be administered by the department. Notwithstanding Section 13340 of the Government Code, all moneys in the fund shall be continuously appropriated to the department, without regard to fiscal years, for the purpose of funding services and supports pursuant to this subdivision.

(1) The risk pool shall be funded at the equivalent of 5 percent of the historic annual purchase of service costs for consumers participating in the SDS Program.

(2) The risk pool shall be allocated by the department to regional centers through a process specified by the department.

(3) The risk pool may be used only in the event of substantial change in a participant's service and support needs that were not known at the time the individual budget was set, including an urgent need to relocate a residence, and catastrophic injury or illness.

(4) The risk pool may be accessed by a participant more than once in a lifetime.

(g) In the first year of the SDS Program, the department shall provide for establishment of savings to the General Fund equivalent to 5 percent of the historic annual purchase of service costs for SDS program participants. In subsequent fiscal years, the department shall annually provide for establishment of savings to the General Fund equivalent to 5 percent of the annual purchase of services costs for SDS Program participants, averaged over the prior two fiscal years.

(h) A regional center may advance funds to a financial management services entity pursuant to SDS Program regulations to facilitate development of a participant's individual budget and transition into the SDS Program.

(i) Participation in the SDS Program shall be available to any regional center consumer who meets all of the following eligibility requirements:

(1) The participant is three years of age or older.

(2) The participant has a developmental disability, as defined in Section 4512.

(3) The participant does not live in a licensed long-term health care facility, as defined in paragraph (44) of subdivision (a) of Section 54302 of Title 17 of the California Code of Regulations, or a residential facility, as defined in paragraph (55) of subdivision (a) of Section 54302 of Title 17 of the California Code of Regulations, or receive day program or habilitation services, as defined in paragraph (16) or (34) of subdivision (a) of Section 54302 of Title 17 of the California Code of Regulations, respectively. An individual, and, when appropriate, their parent, legal guardian or conservator, or authorized representative, who is not eligible to participate in the SDS Program pursuant to this paragraph may request that the regional center provide person-centered planning services in order to make arrangements for transition to the SDS Program. In that case, the regional center shall initiate person-centered planning services within 60 days of a request.

(4) The participant agrees to all of the following terms and conditions:

(A) The participant shall undergo an in-depth orientation to the SDS Program prior to enrollment.

(B) The participant shall agree to utilize the services and supports available within the SDS Program only when generic services cannot be accessed, and except for Medi-Cal state plan benefits when applicable.

(C) The participant shall consent to use only services necessary to implement their individual program plan as described in the IPSD Waiver Program, and as defined in paragraph (6) of subdivision (b), as an available service in the SDS Program, and

shall agree to comply with any and all other terms and conditions for participation in the SDS Program described in this section.

(D) The participant shall manage self-directed services within the individual budget amount, chosen pursuant to subdivision (e).

(E) The participant shall utilize the services of a financial management services entity of their own choosing. A financial management services provider may either be hired or designated by the participant. A designated financial management services provider shall perform services on a nonpaid basis. An individual or a parent of an individual in the SDS Program shall provide financial management services only as a designated provider and only if the capacity to fulfill the roles and responsibilities as described in the financial management services provider qualifications can be demonstrated to the regional center.

(F) The participant shall utilize the services of a supports broker of their own choosing for the purpose of providing services and functions as described in paragraphs (2) and (3) of subdivision (b). A supports broker may either be hired or designated by the participant. A designated supports broker shall perform support brokerage services on a nonpaid basis. An individual or a parent of an individual in the SDS Program shall provide supports brokerage services or their designated representative shall provide the services only as a designated provider and only if the capacity to fulfill the role and responsibilities as described in the supports broker provider qualifications can be demonstrated to the financial management services entity.

(j) A participant who is not Medi-Cal eligible may participate in the SDS Program without IPSD Waiver Program enrollment and receive self-directed services if all other IPSD Waiver Program eligibility requirements are met.

(k) The planning team, established pursuant to subdivision (j) of Section 4512, shall utilize the person-centered planning process to develop the Individual Program Plan (IPP) for an SDS participant. The IPP shall detail the goals and objectives of the participant that are to be met through the purchase of participant selected services and supports.

(l) The participant shall implement their IPP, including choosing the services and supports allowable under this section necessary to implement the plan. A regional center may not prohibit the purchase of any service or support that is otherwise allowable under this section.

(m) An adult may designate an authorized representative to effect the implementation. The representative shall meet all of the following requirements:

(1) They shall demonstrate knowledge and understanding of the participant's needs and preferences.

(2) They shall be willing and able to comply with SDS Program requirements.

(3) They shall be at least 18 years of age.

(4) They shall be approved by the participant to act in the capacity of a representative.

(n) The participant, or their authorized representative, and the regional center case manager shall receive a monthly budget statement that describes the amount of funds allocated by budget category, the amount spent in the previous 30-day period, and the amount of funding that remains available under the participant's individual budget.

(o) If at any time during participation in the SDS Program a regional center determines that an individual is no longer eligible to continue based on the criteria described in subdivision (i), or a participant voluntarily chooses to exit the SDS Program, the regional center shall provide for the participant's transition from the SDS Program to other services and supports. This shall include the development of a new individual program plan that reflects the services and supports necessary to meet the individual's needs. The regional center shall ensure that there is no gap in services and supports during the transition period.

(1) Upon determination of ineligibility pursuant to this subdivision, the regional center shall inform the participant in writing of their ineligibility, the reason for the determination of ineligibility, and shall provide a written notice of the fair hearing rights, as required by Section 4701.

(2) An individual determined ineligible, or an individual who voluntarily exits the SDS Program, shall be permitted to return to the SDS Program upon meeting all applicable eligibility criteria and after a minimum of 12 months' time has elapsed.

(p) A participant in the SDS Program shall have all the rights established in Chapter 7 (commencing with Section 4700), except as provided under paragraph (6) of subdivision (e).

(q) Only a financial management services provider is required to apply for vendorization in accordance with Subchapter 2 (commencing with Section 54300) of Chapter 3 of Division 2 of Title 17 of the California Code of Regulations, for the SDS Program. All other service providers shall have applicable state licenses, certifications, or other state required documentation, but are exempt from the vendorization requirements set forth in Title 17 of the California Code of Regulations. The financial management services entity shall ensure and document that all service providers meet specified requirements for any service that may be delivered to the participant.

(r) A participant in the SDS Program may request, at no charge to the participant or the regional center, criminal history background checks for persons seeking employment as a service provider and providing direct care services to the participant.

(1) Criminal history records checks pursuant to this subdivision shall be performed and administered as described in subdivision (b) and subdivisions (d) to (h), inclusive, of Section 4689.2, and Sections 4689.4 to 4689.6, inclusive, and shall apply to vendorization of providers and hiring of employees to provide services for family home agencies and family homes.

(2) The department may enter into a written agreement with the Department of Justice to implement this subdivision.

(s) Notwithstanding any provision of law, an individual receiving services and supports under the self-determination projects established pursuant to former Section 4685.5 may elect to continue to receive self-determination services within their current scope and existing procedures and parameters. Participation in a self-determination project pursuant to former Section 4685.5 may only be terminated upon a participant's voluntary election and qualification to receive services under another delivery system.

(t) Each regional center shall be responsible for implementing an SDS Program as a term of its contract under Section 4629.

(u) The department shall annually provide the following information to the policy and fiscal committees of the Legislature:

(1) Number and characteristics of participants, by regional center.

(2) Types and ranking of services and supports purchased under the SDS Program, by regional center.

(3) Range and average of individual budgets, by regional center.

(4) Utilization of the risk pool, including range and average individual budget augmentations and type of service, by regional centers.

(5) Information regarding consumer satisfaction under the SDS Program and, when data is available, the traditional service delivery system, by regional center.

(6) The proportion of participants who report that their choices and decisions are respected and supported.

(7) The proportion of participants who report they are able to recruit and hire qualified service providers.

(8) The number and outcome of individual budget appeals, by regional center.

(9) The number and outcome of fair hearing appeals, by regional center.

(10) The number of participants who voluntarily withdraw from participation in the SDS Program and a summary of the reasons why, by regional center.

(11) The number of participants who are subsequently determined to no longer be eligible for the SDS Program and a summary of the reasons why, by regional center.

(12) Identification of barriers to participation and recommendations for program improvements.

(13) A comparison of average annual expenditures for individuals with similar characteristics not participating in the SDS Program.

(Amended by Stats. 2024, Ch. 47, Sec. 10. (AB 162) Effective July 2, 2024.)

4685.8. (a) The department shall implement a statewide Self-Determination Program. The Self-Determination Program shall be available in every regional center catchment area to provide participants and their families, within an individual budget, increased flexibility and choice, and greater control over decisions, resources, and needed and desired services and supports to implement their IPP. As of July 1, 2021, the program shall begin to be available on a voluntary basis to all regional center consumers who are eligible for the Self-Determination Program.

(b) The department, in establishing the statewide program, shall do both of the following:

(1) Set targets and benchmarks as set forth in paragraph (1) of subdivision (r).

(2) Address all of the following:

(A) Oversight of expenditure of self-determined funds and the achievement of participant outcomes over time.

(B) Increased participant control over which services and supports best meet the participant's needs and the IPP objectives. A participant's unique support system may include the purchase of existing service offerings from service providers or local businesses, hiring their own support workers, or negotiating unique service arrangements with local community resources.

(C) Comprehensive person-centered planning, including an individual budget and services that are outcome based.

(D) Consumer and family training to ensure understanding of the principles of self-determination, the planning process, and the management of budgets, services, and staff.

(E) Choice of independent facilitators, who meet standards and certification requirements established by the department, and who can assist with the functions specified in paragraph (2) of subdivision (c).

(F) Choice of financial management services providers who meet standards and certification requirements established by the department, and who can carry out the functions specified in paragraph (1) of subdivision (c).

(G) Innovation that will more effectively allow participants to achieve their goals.

(H) Long-term sustainability of the Self-Determination Program by doing all of the following:

(i) Requiring IPP teams, when developing the individual budget, to determine the services, supports, and goods necessary for each consumer based on the needs and preferences of the consumer, and when appropriate the consumer's family; the effectiveness of each option in meeting the goals specified in the IPP; the cost effectiveness of each option, as specified in subparagraph (D) of paragraph (6) of subdivision (a) of Section 4648; and the utilization of available generic services, as defined by the department.

(ii) The department may review final individual budgets that are at or above a spending threshold determined by the department of all individual budgets and use information from its review in the aggregate to develop additional program guidance and verify compliance with federal and state laws and other requirements.

(I) Reduce barriers to participation and improve equity in enrollment by establishing, with community input, no later than March 1, 2027, statewide standardized processes and procedures, including, but not limited to, timelines for these processes and procedures. Input from the community shall include, but not be limited to, consultation with the department's Lived Experience Advisory Group, individuals and families, caregivers, advocates and associations, service providers, regional centers, the State Council on Developmental Disabilities Statewide Self-Determination Advisory Committee, and legislative staff and shall include adequate notice, or 45 days at a minimum, for the community to review and provide feedback on draft processes and procedures, with review and consideration by the department of feedback prior to finalization for the March 1, 2027, deadline. The standardized processes and procedures shall be consistently applied by regional centers. The standardized processes and procedures shall include, but not be limited to, all of the following:

(i) Enrollment.

(ii) Individual budgets.

(iii) Spending plans.

(iv) Financial management services.

(v) Access to transition supports.

(c) For purposes of this section, the following definitions apply:

(1) "Financial management services" means services or functions that assist the participant to manage and direct the distribution of funds contained in the individual budget, and ensure that the participant has the financial resources to implement their IPP throughout the year. These may include bill paying services and activities that facilitate the employment of service and support workers by the participant, including, but not limited to, fiscal accounting, tax withholding, compliance with relevant state and federal employment laws, assisting the participant in verifying provider qualifications, including criminal background checks, and expenditure reports. The financial management services provider shall meet the applicable requirements of Title 17 of the California Code of Regulations and other specific qualifications or certifications established by the department.

(2) "Independent facilitator" means a person, selected and directed by the participant, who is not otherwise providing services to the participant pursuant to their IPP and is not employed by a person providing services to the participant. The independent facilitator may assist the participant in making informed decisions about the individual budget, and in locating, accessing, and coordinating services and supports consistent with the participant's IPP. The independent facilitator is available to assist in identifying immediate and long-term needs, developing options to meet those needs, leading, participating, or advocating on behalf of the participant in the person-centered planning process and development of the IPP, and obtaining identified services and supports. The cost of the independent facilitator, if any, shall be paid by the participant out of the participant's individual budget. An independent facilitator shall receive training in the principles of self-determination, the person-centered planning process, and the other responsibilities described in this paragraph at the independent facilitator's own cost. The independent facilitator shall meet standards and certification requirements established by the department.

(3) "Individual budget" means the amount of regional center purchase of service funding available to the participant for the purchase of services and supports necessary to implement the IPP. The individual budget shall be determined using a fair, equitable, and transparent methodology.

(4) "IPP" means individual program plan, as described in Section 4646.

(5) "Participant" means an individual, and when appropriate, the participant's parents, legal guardian or conservator, or authorized representative, who has been deemed eligible for, and has voluntarily agreed to participate in, the Self-Determination Program.

(6) "Self-determination" means a voluntary delivery system consisting of a defined and comprehensive mix of services and supports, selected and directed by a participant through person-centered planning, in order to meet the objectives in their IPP. Self-determination services and supports are designed to assist the participant to achieve personally defined outcomes in community settings that promote inclusion. The Self-Determination Program shall only fund services and supports provided pursuant to this division that the federal Centers for Medicare and Medicaid Services determines are eligible for federal financial participation.

(7) "Spending plan" means the plan the participant develops to use their available individual budget funds to purchase goods, services, and supports necessary to implement their individual program plan (IPP). The spending plan shall identify the cost of each good, service, and support that will be purchased with regional center funds. The total amount of the spending plan cannot exceed the amount of the individual budget. A copy of the spending plan shall be attached to the participant's IPP.

(d) Participation in the Self-Determination Program is fully voluntary. A participant may choose to participate in, and may choose to leave, the Self-Determination Program at any time. A regional center shall not require or prohibit participation in the Self-Determination Program as a condition of eligibility for, or the delivery of, services and supports otherwise available under this division. Participation in the Self-Determination Program shall be available to any regional center consumer who meets the following eligibility requirements:

(1) The participant has a developmental disability, as defined in Section 4512, and is receiving services pursuant to this division.

(2) The consumer does not live in a licensed long-term health care facility, as defined in paragraph (44) of subdivision (a) of Section 54302 of Title 17 of the California Code of Regulations. An individual, and when appropriate the individual's parent, legal guardian or conservator, or authorized representative, who is not eligible to participate in the Self-Determination Program pursuant to this paragraph may request that the regional center provide person-centered planning services in order to make arrangements for transition to the Self-Determination Program, provided that the individual is reasonably expected to transition to the community within 90 days. In that case, the regional center shall initiate person-centered planning services within 60 days of that request.

(3) The participant agrees to all of the following terms and conditions:

(A) The participant shall receive an orientation that meets the standards set or developed by the department to the Self-Determination Program prior to enrollment, which includes the principles of self-determination, the role of the independent facilitator and the financial management services provider, person-centered planning, and development of a budget.

(B) The participant shall utilize the services and supports available within the Self-Determination Program only when generic services and supports are not available.

(C) The participant shall only purchase services and supports necessary to implement their IPP and shall comply with any and all other terms and conditions for participation in the Self-Determination Program described in this section.

(D) The participant shall manage Self-Determination Program services and supports within the participant's individual budget.

(E) The participant shall utilize the services of a financial management services provider of their own choosing and who is vendored by a regional center and who meets the qualifications in paragraph (1) of subdivision (c).

(F) The participant may utilize the services of an independent facilitator of their own choosing for the purpose of providing services and functions as described in paragraph (2) of subdivision (c). If the participant elects not to use an independent facilitator, the participant may use their regional center service coordinator to provide the services and functions described in paragraph (2) of subdivision (c).

(G) If eligible, with the assistance of the regional center, if needed, timely apply for Medi-Cal in order to maximize federal funding. The participant may consider institutional deeming in order to qualify for Medi-Cal services.

(e) A participant who is not Medi-Cal eligible may participate in the Self-Determination Program and receive self-determination services and supports if all other program eligibility requirements are met and the services and supports are otherwise eligible for federal financial participation.

(f) The additional federal financial participation funds generated by the former participants of the self-determination pilot projects authorized pursuant to Section 13 of Chapter 1043 of the Statutes of 1998, as amended, or pursuant to Article 4 (commencing with Section 4669.2) of Chapter 5, shall be used to maximize the ability of Self-Determination Program participants to direct their own lives and to ensure the department and regional centers successfully implement the program as follows:

(1) First, to offset the cost to the department for the criminal background check conducted pursuant to subdivision (v) and other administrative costs incurred by the department in implementing the Self-Determination Program.

(2) With the remaining funds, the department, in consultation with stakeholders, including a statewide self-determination advisory workgroup, shall prioritize the use of the funds to meet the needs of participants, increase service access and equity, and reduce disparities, and to implement the program, including costs associated with all of the following:

(A) Independent facilitators to assist with a participant's initial person-centered planning meeting.

(B) Development of the participant's initial individual budget.

(C) Joint training of consumers, family members, regional center staff, and members of the local volunteer advisory committee established pursuant to paragraph (1) of subdivision (w).

(D) Regional center operations to increase support for transition to the Self-Determination Program or for caseload ratio enhancement.

(E) To offset the costs to the regional centers in implementing the Self-Determination Program.

(F) To support the Statewide Self-Determination Advisory Committee established pursuant to paragraph (2) of subdivision (w).

(g) If at any time during participation in the Self-Determination Program a regional center determines that a participant is no longer eligible to continue in, or a participant voluntarily chooses to exit, the Self-Determination Program, the regional center shall provide for the participant's transition from the Self-Determination Program to other services and supports. This transition shall include the development of a new IPP that reflects the services and supports necessary to meet the individual's needs. The regional center shall ensure that there is no gap in services and supports during the transition period.

(h) An individual determined to be ineligible for or who voluntarily exits the Self-Determination Program shall be permitted to return to the Self-Determination Program upon meeting all applicable eligibility criteria and upon approval of the participant's planning team, as described in subdivision (j) of Section 4512. An individual who has voluntarily exited the Self-Determination Program shall not return to the program for at least 12 months.

(i) An individual who participates in the Self-Determination Program may elect to continue to receive self-determination services and supports if the individual transfers to another regional center catchment area, provided that the individual remains eligible for the Self-Determination Program pursuant to subdivision (d). The balance of the participant's individual budget shall be reallocated to the regional center to which the participant transfers.

(j) The IPP team shall utilize the person-centered planning process to develop the IPP for a participant. The IPP shall detail the goals and objectives of the participant that are to be met through the purchase of participant-selected services and supports. The IPP team shall determine the individual budget to ensure the budget assists the participant to achieve the outcomes set forth in the participant's IPP and ensures their health and safety. The completed individual budget shall be attached to the IPP.

(k) The participant shall implement their IPP, including choosing and purchasing the services and supports allowable under this section necessary to implement the plan. A regional center shall not prohibit the purchase of any service or support that is otherwise allowable under this section.

(l) A participant shall have all the rights established in Sections 4646 to 4646.6, inclusive, and Chapter 7 (commencing with Section 4700).

(m) (1) Except as provided in paragraph (4), the IPP team shall determine the initial and any revised individual budget for the participant using the following methodology:

(A) (i) Except as specified in clause (ii), for a participant who is a current consumer of the regional center, their initial individual budget shall be the total amount of the most recently available 12 months of purchase of service authorizations, services authorized by the IPP team but not currently provided in a purchase of service authorization, less services paid for by the regional center outside of the self-determination program and one-time expenses. The IPP team shall discuss unmet needs for participants with no or low purchases of services.

(ii) An adjustment may be made to the amount specified in clause (i) if both of the following occur:

(l) The IPP team determines that an adjustment to this amount is necessary due to a change in the participant's circumstances, needs, or resources. When adjusting the budget, the IPP team shall document the specific reason for the adjustment in the IPP.

(II) The regional center certifies on the individual budget document that regional center expenditures for the individual budget, including any adjustment, would have occurred regardless of the individual's participation in the Self-Determination Program.

(iii) For purposes of clauses (i) and (ii), the amount of the individual budget shall not be increased to cover the cost of the independent facilitator.

(B) For a participant who is either newly eligible for regional center services or who does not have 12 months of services included in the current IPP, the participant's individual budget shall be calculated as follows:

(i) The IPP team shall identify the services and supports needed by the participant and available resources, as required by Section 4646.

(ii) The regional center shall calculate the cost of providing the services and supports to be purchased by the regional center by using the average cost paid by the regional center for each service or support unless the regional center determines that the consumer has a unique need that requires a higher or lower cost. The IPP team also shall document the specific reason for the adjustment in the IPP. The regional center shall certify on the individual budget document that this amount would have been expended using regional center purchase of service funds regardless of the individual's participation in the Self-Determination Program.

(iii) For purposes of clauses (i) and (ii), the amount of the individual budget shall not be increased to cover the cost of the independent facilitator.

(2) The amount of the individual budget shall be available to the participant each year for the purchase of program services and supports. An individual budget shall be calculated no more than once in a 12-month period, unless revised to reflect a change in circumstances, needs, or resources of the participant using the process specified in clause (ii) of subparagraph (A) of paragraph (1).

(3) The spending plan shall be assigned to uniform budget categories developed by the department in consultation with stakeholders and distributed according to the timing of the anticipated expenditures in the IPP and in a manner that ensures that the participant has the financial resources to implement the IPP throughout the year.

(4) The department, in consultation with stakeholders, may develop alternative methodologies for individual budgets that are computed in a fair, transparent, and equitable manner and are based on consumer characteristics and needs, and that include a method for adjusting individual budgets to address a participant's change in circumstances or needs.

(n) Participants may transfer funds between service codes and budget categories upon the approval of the regional center or the participant's IPP team. The regional center shall provide timely authorizations to the participant's financial management service.

(o) Consistent with the implementation date of the IPP, the IPP team shall annually ascertain from the participant whether there are any circumstances or needs that require a change to the annual individual budget. Based on that review, the IPP team shall calculate a new individual budget consistent with the methodology identified in subdivision (m).

(p) (1) The department, as it determines necessary, may adopt regulations to implement the procedures set forth in this section. Any regulations shall be adopted in accordance with the requirements of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

(2) Notwithstanding paragraph (1) and Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, and only to the extent that all necessary federal approvals are obtained, the department, without taking any further regulatory action, shall implement, interpret, or make specific this section by means of program directives or similar instructions until the time regulations are adopted. It is the intent of the Legislature that the department be allowed this temporary authority as necessary to implement program changes only until completion of the regulatory process.

(q) The department, in consultation with stakeholders, shall develop informational materials about the Self-Determination Program. The department shall ensure that regional centers are trained in the principles of self-determination, the mechanics of the Self-Determination Program, and the rights of consumers and families as candidates for, and participants in, the Self-Determination Program.

(r) Each regional center shall be responsible for implementing the Self-Determination Program as a term of its contract under Section 4629. As part of implementing the program, the regional center shall do all of the following:

(1) Meet the Self-Determination targets approved by the department, meet benchmarks established by the department in areas including timely enrollment, diversity of consumers served, and reduction of disparities in the individual budget of participants from racial and ethnic communities, and be eligible for incentives for exceeding these targets and benchmarks once the department has established a performance incentives program.

(2) Develop and implement an outreach and training plan about the Self-Determination program for the diverse communities served by the regional center, including in congregate settings. Information shall be provided in plain language, in alternative formats and alternative modes of communication and provide language access as required by state and federal law. Obtain input from stakeholders, including consumers and families that reflect the ethnic and language diversity of the regional center's consumers, about the effectiveness of this outreach and training and other activities that may be effective in reducing disparities in these programs.

(3) Annually report the enrollment, individual budget data, and purchase of service expenditure data for the Self-Determination Program consistent with the criteria in subdivisions (a) to (c), inclusive, of Section 4519.5.

(4) Assist eligible participants and their families in applying for Medi-Cal, in order to maximize federal funding and assist interested participants who wish to pursue institutional deeming in order to qualify for Medi-Cal services.

(5) At least annually, in addition to annual certification, conduct an additional review of all final individual budgets for participants at the regional center which are at or above a spending threshold that is specified by the department through directive consistent with federal and state requirements. This information may be used in the aggregate to provide training, program guidance, and verify compliance with state and federal requirements.

(6) Certify the spending plan to verify that goods and services satisfy all of the following:

(A) Address the individual's desired outcomes identified in the individual program plan.

(B) Are not available from generic services, as defined by the department.

(C) Are eligible for federal financial participation.

(7) Contract with local consumer or family-run organizations and consult with the local volunteer advisory committee established pursuant to paragraph (1) of subdivision (w) to conduct outreach through local meetings or forums to consumers and their families to provide information about the Self-Determination Program and to help ensure that the program is available to a diverse group of participants, with special outreach to underserved communities.

(8) Collaborate with the local consumer or family-run organizations identified in paragraph (1) to jointly conduct training about the Self-Determination Program. The regional center shall consult with the local volunteer advisory committee established pursuant to paragraph (1) of subdivision (w) in planning for the training, and the local volunteer advisory committee may designate members to represent the advisory committee at the training.

(9) Train all service coordinators and fair hearing specialists in the principles of self-determination, the mechanics of the Self-Determination Program, and the rights of consumers and families. The training shall be conducted in collaboration with the local volunteer advisory committee.

(10) Provide payment to the financial management services provider for spending plan expenses through a not less than semi-monthly pay schedule.

(s) The financial management services provider shall provide the participant and the regional center service coordinator with a monthly individual budget statement that describes the amount of funds allocated by budget category, the amount spent in the previous 30-day period, and the amount of funding that remains available under the participant's individual budget.

(t) Only the financial management services provider is required to apply for vendorization in accordance with Subchapter 2 (commencing with Section 54300) of Chapter 3 of Division 2 of Title 17 of the California Code of Regulations for the Self-Determination Program. All other service and support providers shall not be on the federal debarment list and shall have applicable state licenses, certifications, or other state required documentation, including documentation of any other qualifications required by the department, but are exempt from the vendorization requirements set forth in Title 17 of the California Code of Regulations when serving participants in the Self-Determination Program.

(u) The regional center shall pay the full costs of the participant's financial management services provider.

(v) To protect the health and safety of participants in the Self-Determination Program, the department shall require a criminal background check in accordance with all of the following:

(1) The department shall issue a program directive that identifies nonvendored providers of services and supports who shall obtain a criminal background check pursuant to this subdivision. At a minimum, these staff shall include both of the following:

(A) Individuals who provide direct personal care services to a participant.

(B) Other nonvendored providers of services and supports for whom a criminal background check is requested by a participant or the participant's financial management service.

(2) Subject to the procedures and requirements of this subdivision, the department shall administer criminal background checks consistent with the department's authority and the process described in Sections 4689.2 to 4689.6, inclusive.

(3) The department shall electronically submit to the Department of Justice fingerprint images and related information required by the Department of Justice of nonvended providers of services and supports, as specified in paragraph (1), for purposes of obtaining information as to the existence and content of a record of state or federal convictions and state or federal arrests and also information as to the existence and content of a record of state or federal arrests for which the Department of Justice establishes that the person is free on bail or on their own recognizance pending trial or appeal.

(4) When received, the Department of Justice shall forward to the Federal Bureau of Investigation requests for federal summary criminal history information received pursuant to this section. The Department of Justice shall review the information returned from the Federal Bureau of Investigation and compile and disseminate a response to the department.

(5) The Department of Justice shall provide a state or federal response to the department pursuant to paragraph (1) of subdivision (p) of Section 11105 of the Penal Code.

(6) The department shall request from the Department of Justice subsequent notification service, as provided pursuant to Section 11105.2 of the Penal Code, for persons described in paragraph (1).

(7) The Department of Justice shall charge a fee sufficient to cover the cost of processing the request described in this subdivision.

(8) The fingerprints of any provider of services and supports who is required to obtain a criminal background check shall be submitted to the Department of Justice prior to employment. The costs of the fingerprints and the financial management service's administrative cost authorized by the department shall be paid by the services and supports provider or the provider's employing agency. Any administrative costs incurred by the department pursuant to this subdivision shall be offset by the funds specified in subdivision (g).

(9) If the criminal record information report shows a criminal history, the department shall take the steps specified in Section 4689.2. The department may prohibit a provider of services and supports from becoming employed, or continuing to be employed, based on the criminal background check, as authorized in Section 4689.6. The provider of services and supports who has been denied employment shall have the rights set forth in Section 4689.6.

(10) The department may utilize a current department-issued criminal record clearance to enable a provider to serve more than one participant, as long as the criminal record clearance has been processed through the department and no subsequent arrest notifications have been received relative to the cleared applicant.

(11) Consistent with subdivision (h) of Section 4689.2, the participant or financial management service that denies or terminates employment based on written notification from the department shall not incur civil liability or unemployment insurance liability.

(w) To ensure the effective implementation of the Self-Determination Program and facilitate the sharing of best practices and training materials commencing with the implementation of the Self-Determination Program, local and statewide advisory committees shall be established as follows:

(1) Each regional center shall establish a local volunteer advisory committee to provide oversight of the Self-Determination Program and identify a regional center liaison to the committee. The regional center and the State Council on Developmental Disabilities shall each appoint one-half of the membership of the committee. The committee shall consist of the regional center clients' rights advocate, consumers, family members, and other advocates, and community leaders, including a representative from a family resource center. A majority of the committee shall be consumers and their family members. The committee shall reflect the multicultural diversity and geographic profile of the catchment area. The committee shall review the development and ongoing progress of the Self-Determination Program, including whether the program advances the principles of self-determination and is operating consistent with the requirements of this section, and may make ongoing recommendations for improvement to the regional center and the department. Annually, the regional center shall confirm, in writing, that the committee meets the requirements specified in this paragraph and provide the department with the name of the staff liaison and the names of the committee members, the positions they fill on the committee, and which entity appointed them to the committee.

(2) The State Council on Developmental Disabilities shall form a volunteer committee, to be known as the Statewide Self-Determination Advisory Committee, comprised of the chairs of the 21 local advisory committees or their designees. The council shall convene the Statewide Self-Determination Advisory Committee twice annually, or more frequently in the sole discretion of the council. The Statewide Self-Determination Advisory Committee shall meet by teleconference or other means established by the council to identify self-determination best practices, effective consumer and family training materials, implementation concerns, systemic issues, ways to enhance the program, and recommendations regarding the most effective method for participants to learn of individuals who are available to provide services and supports. The council shall synthesize information received from the

Statewide Self-Determination Advisory Committee, local advisory committees, and other sources, share the information with consumers, families, regional centers, and the department, and make recommendations, as appropriate, to increase the program's effectiveness in furthering the principles of self-determination.

(x) The department shall annually provide the following information to the appropriate policy and fiscal committees of the Legislature:

- (1) Number and characteristics of participants, by regional center, including the number of participants who entered the program upon movement from a developmental center.
- (2) Types and amount of services and supports purchased under the Self-Determination Program, by regional center.
- (3) Range and average of individual budgets, by regional center, including adjustments to the budget to address the adjustments permitted in clause (ii) of subparagraph (A) of paragraph (1) of subdivision (m).
- (4) The number and outcome of appeals concerning individual budgets, by regional center.
- (5) The number and outcome of fair hearing appeals, by regional center.
- (6) The number of participants who voluntarily withdraw from the Self-Determination Program and a summary of the reasons why, by regional center.
- (7) The number of participants who are subsequently determined to no longer be eligible for the Self-Determination Program and a summary of the reasons why, by regional center.

(y) (1) The State Council on Developmental Disabilities shall issue an interim report to the Legislature, in compliance with Section 9795 of the Government Code, no later than June 30, 2021, on the status of the Self-Determination Program authorized by this section, barriers to its implementation, and recommendations to enhance the effectiveness of the program. The interim report shall provide an update to the program's status, each regional center's cap on participation and progress toward that cap, the most recent statewide and per-regional-center participant count, and the historical trend in the statewide participation count since the start of the program. The department shall assist in providing available information to the council in order to facilitate the timely issuance of the report.

(2) The council, in collaboration with the protection and advocacy agency identified in Section 4900 and the federally funded University Centers for Excellence in Developmental Disabilities Education, Research, and Service, may work with regional centers to survey participants regarding participant satisfaction under the Self-Determination Program and, when data is available, the traditional service delivery system, including the proportion of participants who report that their choices and decisions are respected and supported and who report that they are able to recruit and hire qualified service providers, and to identify barriers to participation and recommendations for improvement.

(3) The council, in collaboration with the protection and advocacy agency identified in Section 4900 and the federally funded University Centers for Excellence in Developmental Disabilities Education, Research, and Service, shall issue a report to the Legislature, in compliance with Section 9795 of the Government Code, by June 30, 2023, on the status of the Self-Determination Program authorized by this section, and provide recommendations to enhance the effectiveness of the program. This review shall include the program's effectiveness in furthering the principles of self-determination, including all of the following:

- (A) Freedom, which includes the ability of adults with developmental disabilities to exercise the same rights as all citizens to establish, with freely chosen supporters, family and friends, where they want to live, with whom they want to live, how their time will be occupied, and who supports them; and for families to have the freedom to receive unbiased assistance of their own choosing when developing a plan and to select all personnel and supports to further the life goals of a minor child.
- (B) Authority, which includes the ability of a person with a disability, or family, to control a certain sum of dollars in order to purchase services and supports of their choosing.
- (C) Support, which includes the ability to arrange resources and personnel, both formal and informal, that will assist a person with a disability to live a life in the community that is rich in community participation and contributions.
- (D) Responsibility, which includes the ability of participants to take responsibility for decisions in their own lives and to be accountable for the use of public dollars, and to accept a valued role in their community through, for example, competitive employment, organizational affiliations, spiritual development, and general caring of others in their community.
- (E) Confirmation, which includes confirmation of the critical role of participants and their families in making decisions in their own lives and designing and operating the system that they rely on.

(Amended by Stats. 2025, Ch. 12, Sec. 8. (AB 143) Effective June 27, 2025.)

4685.9. (a) The department shall establish an Office of the Self-Determination Program Ombudsperson.

(b) The Office of the Self-Determination Program Ombudsperson shall be headed by an individual, to be known as the Self-Determination Program Ombudsperson. As soon as is practicable, the Director of the Department of Developmental Services shall appoint an ombudsperson qualified by training and experience to perform the duties of the office for a term of four years. The director may reappoint the ombudsperson for consecutive terms.

(c) The office shall be an independent and autonomous entity within the department for the purpose of monitoring the implementation of Section 4685.8 and to assist regional center clients and Self-Determination Program consumers and their families to participate fully in the Self-Determination Program as authorized pursuant to Section 4685.8

(d) The office shall have all of the following rights and duties:

(1) Providing information and assisting regional center consumers and their families in understanding their rights under the Self-Determination Program, including the process, goals, and objectives of the program and facilitating solutions to disagreements regarding eligibility and services.

(2) Deciding whether to investigate complaints regarding the implementation of the Self-Determination Program, and recommending to the department strategies for change and improvement of the Self-Determination Program. Disclosure of information shall occur only as necessary to carry out the mission of the office and as permitted by law.

(3) Annually compiling and reporting to the appropriate policy and fiscal committees of the Legislature relevant data collected over the course of the year, including, but not limited to, the number of contacts to the office, the number of complaints made, including the type of those complaints, the number of investigations performed by the office, the trends and issues that arose in the course of investigating complaints, the number of referrals made, and the number of pending complaints.

(4) Recommending to the department and the Legislature changes to, including, but not limited to, relevant laws, regulations, policies, and actions that it determines to be appropriate and provide and facilitate public comment on, including, but not limited to, relevant laws, regulations, policies, and actions.

(5) Establishing a dedicated telephone number at which regional center consumers and other stakeholders may contact the office.

(e) The department shall include, on the portion of its internet website dedicated to the Self-Determination Program, a link to the internet website of the office.

(Added by Stats. 2021, Ch. 76, Sec. 48. (AB 136) Effective July 16, 2021.)

4685.10. (a) The department may adopt regulations to implement and comply with home- and community-based settings and person-centered service plan requirements in Sections 441.530(a)(1) and 441.725 of Title 42 of the Code of Federal Regulations. Any regulations shall be adopted in accordance with the requirements of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

(b) Notwithstanding subdivision (a) and Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, the department may issue administrative program directives to ensure compliance with Sections 441.530(a)(1) and 441.725 of Title 42 of the Code of Federal Regulations until the time regulations are adopted. It is the intent of the Legislature that the department be allowed this temporary authority as necessary to implement compliance with the federal requirements only until completion of the regulatory process.

(Amended by Stats. 2024, Ch. 80, Sec. 131. (SB 1525) Effective January 1, 2025.)

4686. (a) Notwithstanding any other provision of law or regulation to the contrary, an in-home respite worker who is not a licensed health care professional but who is trained by a licensed health care professional may perform incidental medical services for consumers of regional centers with stable conditions, after successful completion of training as provided in this section. Incidental medical services provided by trained in-home respite workers shall be limited to the following:

(1) Colostomy and ileostomy: changing bags and cleaning stoma.

(2) Urinary catheter: emptying and changing bags and care of catheter site.

(3) Gastrostomy: feeding, hydration, cleaning stoma, and adding medication per physician's or nurse practitioner's orders for the routine medication of patients with stable conditions.

(b) In order to be eligible to receive training for purposes of this section, an in-home respite worker shall submit to the trainer proof of successful completion of a first aid course and successful completion of a cardiopulmonary resuscitation course within the preceding year.

(c) The training in incidental medical services required under this section shall be provided by physicians or registered nurses. Training in gastrostomy services shall be provided by a physician or registered nurse, or through a gastroenterology or surgical

center in an acute care hospital, as defined in subdivision (a) of Section 1250 of the Health and Safety Code, which meets California Children Services' Program standards for centers for children with congenital gastrointestinal disorders, or comparable standards for adults, or by a physician or registered nurse who has been certified to provide training by the center.

(d) The in-home respite agency providing the training shall develop a training protocol which shall be submitted for approval to the State Department of Developmental Services. The department shall approve those protocols that specifically address both of the following:

- (1) A description of the incidental medical services to be provided by trained in-home respite workers.
- (2) A description of the protocols by which the training will be provided. Protocols shall include a demonstration of the following skills by the trainee:
 - (A) Care of the gastrostomy, colostomy, ileostomy, or urinary catheter site.
 - (B) Performance of gastrostomy tube feeding, changing bags and cleaning stoma of colostomy or ileostomy sites, and emptying and changing urinary catheter bags.
 - (C) Identification of, and appropriate response to, problems and complications associated with gastrostomy care and feeding, colostomy and ileostomy care, and care of urinary catheter sites.
 - (D) Continuing education requirements.

(e) Training by the gastroenterology or surgical center, or the certified physician or registered nurse, shall be done in accordance with the approved training protocol. Training of in-home respite workers shall be specific to the individual needs of the regional center consumer receiving the incidental medical service and shall be in accordance with orders from the consumer's treating physician or surgeon.

(f) The treating physician or surgeon shall give assurances to the regional center that the patient's condition is stable prior to the regional center's purchasing incidental medical services for the consumer through an appropriately trained respite worker.

(g) Prior to the purchase of incidental medical services through a trained respite worker, the regional center shall do all of the following:

- (1) Ensure that a nursing assessment of the consumer, performed by a registered nurse, is conducted to determine whether an in-home respite worker, licensed vocational nurse, or registered nurse may perform the services.
- (2) Ensure that a nursing assessment of the home has been conducted to determine whether incidental medical services can appropriately be provided in that setting.

(h) The agency providing in-home respite services shall do all of the following:

- (1) Ensure adequate training of the in-home respite worker.
- (2) Ensure that telephone backup and emergency consultation by a registered nurse or physician is available.
- (3) Develop a plan for care specific to the incidental medical services provided to be carried out by the respite worker.
- (4) Ensure that the in-home respite worker and the incidental medical services provided by the respite worker are adequately supervised by a registered nurse.

(i) Notwithstanding any other provision of law or regulation to the contrary, the hourly rate for an in-home respite agency shall be increased to provide a fifty cent (\$.50) per hour wage increase and an eight-cent (\$.08) per hour benefit increase for the hours the in-home respite agency is providing incidental medical services.

(j) To expand the availability of trained in-home respite agency staff, a regional center may reimburse the in-home respite agency up to two hundred dollars (\$200) semiannually, for the provision of training pursuant to subdivision (c).

(k) For purposes of this section, "in-home respite worker" means an individual employed by an agency which is vendored by a regional center to provide in-home respite services. These agencies include, but are not limited to, in-home respite services agencies, home health agencies, or other agencies providing these services.

(Amended by Stats. 2009, 4th Ex. Sess., Ch. 9, Sec. 18. Effective July 28, 2009.)

4686.2. (a) Notwithstanding any other law or regulation to the contrary, any vendor who provides applied behavioral analysis (ABA) services, or intensive behavioral intervention services or both, as defined in subdivision (d), shall:

- (1) Conduct a behavioral assessment of each consumer to whom the vendor provides these services.

(2) Design an intervention plan that shall include the service type, number of hours needed, and recommended parent participation to achieve the consumer's goals and objectives, as set forth in the consumer's individual program plan (IPP) or individualized family service plan (IFSP). The intervention plan shall also set forth the frequency at which the consumer's progress shall be evaluated and reported.

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

(b) (1) Notwithstanding any other law or regulation to the contrary, regional centers shall:

(A) Only purchase ABA services or intensive behavioral intervention services that reflect evidence-based practices, promote positive social behaviors, and ameliorate behaviors that interfere with learning and social interactions.

(B) Not purchase either ABA or intensive behavioral intervention services for purposes of providing respite, daycare, or school services.

(C) Discontinue purchasing ABA or intensive behavioral intervention services for a consumer when the consumer's treatment goals and objectives, as described under subdivision (a), are achieved. ABA or intensive behavioral intervention services shall not be discontinued until the goals and objectives are reviewed and updated as required in subparagraph (D) and shall be discontinued only if those updated treatment goals and objectives do not require ABA or intensive behavioral intervention services.

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

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

(F) Not deny or delay the provision of ABA or intensive behavioral intervention services for a minor consumer due to the lack of parent participation. A regional center shall not adopt, implement, or have in effect any policy or practice that prohibits or substantially prohibits the purchase of ABA or intensive behavioral intervention services due to the lack of parent participation. For purposes of this section, "substantially prohibits" means any policy or practice that generally prohibits a purchase of service, but includes a process for the regional center to allow exceptions.

(2) This subdivision shall not be construed to prohibit a regional center from highlighting the benefit of parental participation, as recommended by the intervention plan.

(c) For purposes of this section, the following definitions shall apply:

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

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

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

(4) "Parent participation" may include, but shall not be limited to, the following meanings:

(A) Completion of group instruction on the basics of behavior intervention.

(B) Implementation of intervention strategies, according to the intervention plan.

(C) If needed, collection of data on behavioral strategies and submission of that data to the provider for incorporation into progress reports.

(D) Participation in any needed clinical meetings.

(E) Purchase of suggested behavior modification materials or community involvement if a reward system is used.

4686.3. The department shall adopt emergency regulations to address the use of paraprofessionals in group practice provider behavioral intervention services and establish a rate. The regulations shall also establish a rate and the educational or experiential qualifications and professional supervision requirements necessary for the paraprofessional to provide behavioral intervention services. The adoption, amendment, repeal, or readoption of a regulation authorized by this section is deemed to be necessary for the immediate preservation of the public peace, health and safety, or general welfare, for purposes of Sections 11346.1 and 11349.6 of the Government Code, and the department is hereby exempted from the requirement that it describe specific facts showing the need for immediate action. A certificate of compliance for these implementing regulations shall be filed within 24 months following the adoption of the first emergency regulations filed pursuant to this section.

(Added by Stats. 2011, Ch. 37, Sec. 15. (AB 104) Effective June 30, 2011.)

4686.31. (a) Effective July 1, 2011, notwithstanding any other law or regulation to the contrary, any vendor who provides services as specified in paragraph (4) shall submit verification to the regional center for services provided to consumers who are under 18 years of age and residing in the family home as follows:

(1) The department shall develop and post a standard form for vendors to complete and provide to the family for signature. The form shall include, but not be limited to, the name and title of the vendor, the vendor identification number, the name of the consumer, the unique client identifier, the location of the service, the date and start and end times of the service, and a description of the service provided. The form shall also include instructions for the parents or legally appointed guardians to contact the regional center service coordinator immediately if they are unable to sign the form.

(2) The vendor shall provide the parents or legally appointed guardians of a minor consumer with the department form to sign. The form shall be signed and dated by the parents or legally appointed guardians of a minor consumer and be submitted to the vendor providing services within 30 days of the month in which the services were provided.

(3) The vendor shall submit the completed forms to the regional center together with the vendor's invoices for the services provided.

(4) If the parents or legally appointed guardians of a minor consumer do not submit a form to the vendor, the vendor shall notify the regional center.

(5) This subdivision shall only apply to the following types of services: Behavior Analyst, Associate Behavior Analyst, Behavior Management Assistant, Behavior Technician (Paraprofessional), Behavior Management Consultant, Counseling Services, Tutor, Crisis Team-Evaluation and Behavioral Intervention, Tutor Services-Group, Client/Parent Support Behavior Intervention Training, and Parent-Coordinated Home Based Behavior Intervention Program for Autistic Children.

(b) The failure of the parents or legally appointed guardians of a minor consumer to submit a verification of services to the vendor shall not be a basis for terminating or changing behavioral services to the minor consumer. Any changes to behavioral services shall be made by the consumer's planning team pursuant to Section 4512.

(Added by Stats. 2011, Ch. 37, Sec. 16. (AB 104) Effective June 30, 2011.)

4686.4. (a) On or before July 1, 2026, the department shall adopt regulations to address the use of Behavioral Health Professionals in behavioral health treatment group practice. The regulations shall also establish a rate and the educational or experiential qualifications and professional supervision requirements necessary for the Behavioral Health Professional to provide evidence-based behavioral intervention services.

(b) On or before July 1, 2026, the department shall adopt regulations to address the use of Behavioral Health Paraprofessionals in behavioral health treatment group practice. The regulations shall also establish a rate and the educational or experiential qualifications and professional supervision requirements necessary for the Behavioral Health Paraprofessional to provide evidence-based behavioral intervention services.

(Added by Stats. 2023, Ch. 635, Sec. 3. (SB 805) Effective January 1, 2024.)

4687. Consistent with state and federal law, the Legislature recognizes the rights of persons with disabilities to have relationships, marry, be a part of a family, and to parent if they so choose. The Legislature further recognizes that individuals with developmental disabilities may need support and counseling in order to make informed decisions in these areas. In order to achieve these goals, the following services may be made available to persons with developmental disabilities:

(a) Sexuality training.

(b) Parenting skills training.

- (c) Supported living arrangements for parents with developmental disabilities and their children.
- (d) Advocacy assistance to deal with agencies, including, but not limited to, child protective services, and assistance in reunification planning.
- (e) Family counseling services.
- (f) Other services and supports listed in Section 4685 when needed to maintain and strengthen the family unit, where one or both of the parents is an individual with developmental disabilities.

(Added by Stats. 1992, Ch. 1011, Sec. 22. Effective January 1, 1993.)

4688. (a) Consistent with state and federal law, the Legislature places a high priority on providing opportunities for individuals with developmental disabilities to be integrated into the mainstream life of their natural communities. In order to ensure that opportunities for integration are maximized, the procedure described in subdivision (b) shall be adopted.

(b) Regional centers shall be responsible for expanding opportunities for the full and equal participation of persons with developmental disabilities in their local communities through, activities, that may include, but shall not be limited to, the following:

- (1) Outreach to, and training and education of, representatives of community service agencies and programs, businesses, and community activity providers regarding the provision and expansion of opportunities for participation by regional center consumers.
- (2) Developing a community resources list.
- (3) Providing assistance to case managers and family members on expanding community integration options for consumers in the areas of work, recreation, social, community service, education, and public services.
- (4) Developing and facilitating the use of innovative methods of contracting with community members to provide support in natural environments to regional center consumers.
- (5) Development and facilitating the use of natural supports to enhance community participation.
- (6) Providing technical assistance to, and coordinating with, community support facilitators who will be used to provide supports to individual consumers for community participation, as needed.
- (7) Providing sources of information relevant to individuals in making informed choices about employment options. This information may include, but need not be limited to, work incentive programs for persons with developmental disabilities, access and retention of needed benefits, interactions of earned income, asset building, or other financial changes on benefits, employment programs and protections, taxpayer requirements and responsibilities, training opportunities, and information and services available through other agencies, organizations, or on the Internet.

(Amended by Stats. 2006, Ch. 397, Sec. 6. Effective January 1, 2007.)

4688.05. Regional centers shall provide independent living skills services to an adult consumer, consistent with his or her individual program plan, that provide the consumer with functional skills training that enables him or her to acquire or maintain skills to live independently in his or her own home, or to achieve greater independence while living in the home of a parent, family member, or other person.

(Added by Stats. 2014, Ch. 402, Sec. 3. (SB 1093) Effective January 1, 2015.)

4688.06. (a) Consistent with state and federal law, the Legislature recognizes the right of adults with disabilities to reside in the family home. The Legislature further recognizes that adults with developmental disabilities, and their families, may need coordinated family support services that are tailored to the unique needs of the consumer and that are respectful of the language, ethnicity, and culture of the family home.

(b) The department shall establish a Coordinated Family Support Services Pilot Program for adults who live with their families. The pilot program may focus on improving equitable access to services and supports and reducing ethnic and racial disparities in purchases of services.

(c) The services provided by the Coordinated Family Support Services Pilot Program shall be flexible and tailored to assist the consumer to remain in the home of their family for as long as that remains the preferred living option for the consumer and their family.

(d) (1) Notwithstanding Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, the department may issue administrative program directives to ensure compliance with this section until the time regulations are

adopted. It is the intent of the Legislature that the department be allowed this temporary authority as necessary to implement program changes only until completion of the regulatory process.

(2) Any regulation or administrative program directive issued pursuant to this subdivision shall include key elements of the Coordinated Family Support Services Program, including eligibility criteria, service design, and standards for vendors.

(3) The department shall collaborate with stakeholders to obtain input about key elements prior to the issuance of regulations or administrative program directives. Stakeholders shall include, but not be limited to, consumers and family members, including those from ethnically and racially diverse backgrounds, regional centers, the protection and advocacy agency described in subdivision (i) of Section 4900, the Office of Clients' Rights as described in Section 4433, the State Council on Developmental Disabilities, providers who deliver supported living services described in Section 4689, and providers with experience delivering services to adults living in the home of a parent or a family member, including independent living skills services described in Section 4688.05.

(Added by Stats. 2022, Ch. 49, Sec. 24. (SB 188) Effective June 30, 2022.)

4688.1. (a) Notwithstanding any other provision of law or regulation to the contrary, vendors of behavior management, activity center, and adult development center day programs, social recreation programs, socialization training programs, community integration training programs, community activities support programs, creative art programs, and work activity programs shall offer an alternative senior program component focused on the needs of individuals with developmental disabilities who are over 50 years of age, at a rate not to exceed the lesser of thirty-five dollars (\$35) per day or the vendor's existing daily rate.

(1) The alternative senior program component shall be provided at a ratio of no more than eight consumers to one staff member.

(2) Consistent with the intent of the Lanterman Developmental Disabilities Services Act, the alternative senior program component shall be offered within the provider's existing vendored capacity as reflected in its program design or licensed capacity.

(b) Effective July 1, 2009, at the time of development, review, or modification of an eligible consumer's individual program plan, regional centers, as appropriate, shall provide information about and offer an alternative senior program. The alternative senior program shall be offered to eligible consumers who want to transition to a program component focused on the needs and interests of seniors.

(c) Effective July 1, 2011, a regional center shall not refer any additional consumers to alternative senior programs.

(Amended by Stats. 2011, Ch. 37, Sec. 17. (AB 104) Effective June 30, 2011.)

4688.2. (a) Notwithstanding any other provision of law or regulation to the contrary, vendors of behavior management, activity center, and adult development center adult day programs, community integration training programs, and community activities support services programs shall offer an alternative customized program component with an appropriate staffing component to meet individualized consumer needs.

(1) The alternative customized program component shall be offered within the provider's existing vendored capacity, as reflected in its program design or licensed capacity.

(2) The regional center shall fund customized programs based on the vendor's existing rate and only fund those hours provided.

(b) Effective July 1, 2009, at the time of development, review, or modification of a consumer's individual program plan, regional centers, as appropriate, shall provide information about and make available the customized program option.

(1) The alternative customized program component shall be offered to individuals with developmental disabilities who want a program focused on their individualized needs and interests to develop or maintain employment or volunteer activities in lieu of their current program.

(2) Total hours of service for this alternative customized program shall range between 20 and 80 hours per month, per person, depending on the support needs of the individual.

(c) Effective July 1, 2011, a regional center shall not refer any additional consumers to alternative customized programs.

(Amended by Stats. 2011, Ch. 37, Sec. 18. (AB 104) Effective June 30, 2011.)

4688.21. (a) The Legislature places a high priority on opportunities for adults with developmental disabilities to choose and customize day services to meet their individualized needs; have opportunities to further the development and support of employment and volunteer activities; direct their services; pursue postsecondary education; establish and support paid internship program opportunities; and increase their ability to lead integrated and inclusive lives. To further these goals, a consumer may choose a

tailored day service or vouchered community-based training service, in lieu of, or in conjunction with, any other regional center vendored day program, look-alike day program, supported employment program, or work activity program.

(b) (1) A tailored day service shall include an individualized service design, as determined through the individual program plan (IPP), and developed through a person-centered planning process that reflects and maximizes individual preferences and goals, and approved by the regional center. This service design may include, but may not be limited to, the following:

(A) Fewer days or hours than in the program's approved day program, look-alike day program, supported employment program, or work activity program design.

(B) Flexibility in the duration, location, including by remote electronic communications, and intensity of services to meet the consumer's individualized needs.

(C) Prioritize the development or support of competitive, integrated employment, volunteer activities, or pursuit of postsecondary education; establish and support paid internship program opportunities; maximize consumer direction of the service; and increase the consumer's ability to lead an integrated and inclusive life.

(2) The type and amount of tailored day service shall be determined through the IPP process, pursuant to Section 4646. The IPP shall contain, but not be limited to, the following:

(A) A detailed description of the consumer's individualized choices and needs and how these choices and needs will be met.

(B) The type and amount of services and staffing needed to meet the consumer's individualized choices and needs, and unique health and safety and other needs.

(3) The staffing requirements set forth in Section 55756 of Title 17 of the California Code of Regulations and subdivision (p) of Section 4851 of this code shall not apply to a tailored day service.

(4) Commencing July 1, 2022, until June 30, 2025, inclusive, for vendored programs wishing to offer a tailored day service option, the hourly rate for the tailored day service option shall be calculated using a base rate, defined as twice the amount of the rate model or models for "Community-Based Day, Community Only, 1:2." The calculation of the rate shall be as follows:

(A) Effective July 1, 2022, the hourly rate shall equal 80 percent of the base rate.

(B) The rate established in subparagraph (A) shall remain in effect pending the department's review, in coordination with stakeholders, of implementation of this section, as amended by the act that added this paragraph. The review, to be completed by June 30, 2024, shall include development of recommendations that may include, but not be limited to, modifying the scope of the service or establishing a rate model specific to the service. The department shall provide an update to the Legislature on the status of the review no later than January 10, 2024.

(5) Commencing on July 1, 2025, for vendored programs wishing to offer a tailored day service option, the hourly rate for the tailored day service option shall be set by the department and posted on its internet website.

(6) The hold harmless policy defined in subdivision (d) of Section 4519.10 shall apply for vendored programs offering a tailored day service as of June 30, 2022, with an hourly rate that exceeds the rate calculated pursuant to this subdivision.

(7) Tailored day services shall not be delivered on the same day as any other regional center vendored day program, look-alike day program, supported employment program, or work activity program unless all of the following apply:

(A) A consumer has a plan identified in their individual program plan for transitioning from a work activity program to competitive integrated employment, paid internship, or postsecondary education.

(B) The transition plan is developed through a person-centered planning process that reflects and maximizes individual preferences and goals.

(C) The duration of the delivery of tailored day services on the same day or days as a work activity program or supported employment services is no longer than six months.

(8) The total monthly hours of tailored day services shall not exceed the number of days in the month tailored day services are authorized, multiplied by four.

(9) The regional center shall ensure that the vendor is capable of complying with, and will comply with, the consumer's IPP, individual choice, and health and safety needs.

(10) Effective July 1, 2011, and prior to the time of development, review, or modification of a consumer's IPP, regional centers shall provide information about tailored day service to eligible adult consumers. A consumer may request information about

tailored day services from the regional center at any time and may request an IPP meeting to secure those services.

(c) (1) A vouchered community-based training service is defined as a consumer-directed service that assists the consumer in the development of skills required for competitive integrated employment, the paid internship program, participation in volunteer activities, or any combination of these, and the assistance necessary for the consumer to secure employment, a paid internship, or volunteer positions or pursue secondary education.

(2) Implementation of vouchered community-based training service is contingent upon the approval of the federal Centers for Medicare and Medicaid Services.

(3) Vouchered community-based training service shall be provided in natural environments in the community, separate from the consumer's residence.

(4) A consumer, parent, or conservator vendored as a vouchered community-based training service shall utilize the services of a financial management services (FMS) entity. The regional center shall provide information about available financial management services and shall assist the consumer in selecting a FMS vendor to act as coemployer.

(5) A parent or conservator shall not be the direct support worker employed by the vouchered community-based training service vendor.

(6) If the direct support worker is required to transport the consumer, the vouchered community-based training service vendor shall verify that the direct support worker can transport the consumer safely and has a valid California driver's license and proof of insurance.

(7) The rate for vouchered community-based training service shall be the most recent rate posted on the department's public internet website. The rate includes employer-related taxes and all transportation needed to implement the service, except as described in paragraph (8). The rate does not include the cost of the FMS.

(8) A consumer vendored as a vouchered community-based training service shall also be eligible for a regional center-funded bus pass, if appropriate and needed.

(9) Vouchered community-based training service shall be limited to a maximum of 150 hours per quarter. The services to be provided and the service hours shall be documented in the consumer's IPP.

(10) A direct support worker of vouchered community-based training service shall be an adult who possesses the skill, training, and experience necessary to provide services in accordance with the IPP.

(11) Effective July 1, 2011, and prior to the time of development, review, or modification of a consumer's IPP, regional centers shall provide information about vouchered community-based training service to eligible adult consumers.

(12) The type and amount of vouchered community-based training service shall be determined through the IPP process pursuant to Section 4646. The IPP shall contain, but not be limited to, the following:

(A) A detailed description of the consumer's individualized choices and needs and how these choices and needs will be met.

(B) The type and amount of services and staffing needed to meet the consumer's individualized choices and unique health and safety and other needs.

(d) The department may adopt emergency regulations for tailored day service or vouchered community-based training service. The adoption, amendment, repeal, or readoption of a regulation authorized by this subdivision is deemed to be necessary for the immediate preservation of the public peace, health and safety, or general welfare, for purposes of Sections 11346.1 and 11349.6 of the Government Code, and the department is hereby exempted from the requirement that it describe specific facts showing the need for immediate action. A certificate of compliance for these implementing regulations shall be filed within 24 months following the adoption of the first emergency regulations filed pursuant to this subdivision.

(Amended by Stats. 2025, Ch. 12, Sec. 9. (AB 143) Effective June 27, 2025.)

4688.22. (a) The Legislature finds and declares both of the following:

(1) The Legislature places a high priority on promoting the full inclusion and independence of individuals with developmental disabilities, including through opportunities for recreation, consistent with Section 4501 and paragraphs (6) and (7) of subdivision (b) of Section 4502.

(2) As such, it is the intent of the Legislature for social recreation services, camping services, and nonmedical therapies, including, but not limited to, specialized recreation, art, dance, and music, to be among the services and supports within the meaning of subdivision (b) of Section 4512 and be made widely available to consumers, not only for socialization, but to lead the

lives that they want in the community. It is further the intent of the Legislature that regional centers, when developing purchase-of-service policies and related procedures, and that the department, when reviewing regional center purchase-of-service policies and related procedures, reduce administrative barriers to the utilization of these services by consumers to the fullest possible extent.

(b) The regional centers shall use the following principles when purchasing social recreation services, camping services, and nonmedical therapies:

(1) Consumers shall receive services and supports in settings that are typical of those in which persons without disabilities engage in social recreation, camping, or nonmedical therapies.

(2) The services described in this section shall promote community inclusion by providing opportunities to build ongoing relationships through or around shared interests or activities, and shall include both of the following:

(A) Activities that directly support a consumer's ability to participate in typical social recreation or other community activities without paid support present.

(B) Activities that may identify or develop specific interests or skills, enable the consumer to engage with others around shared affinities or goals, or otherwise build informal social networks that reduce isolation, strengthen community ties, assist the consumer in advancing their own interests and well-being, and can be a source of voluntary natural supports.

(3) (A) Regional center purchase-of-service policies and related procedures shall promote access to the services described in this section for consumers who are children, for consumers who experience disparities in the receipt of regional center services, and for consumers or their representatives who are unable to afford paying for services upfront and awaiting reimbursement.

(B) Regional center purchase-of-service policies and procedures shall refer consumers and their families to existing opportunities for social recreation services and camping services by funding those services directly along with the supports they may need to access them.

(4) Regional center purchase-of-service policies and procedures related to services described in this section shall not do any of the following:

(A) Restrict funding of the services described in this section to only those that are specialized or directed toward the alleviation of a developmental disability within the meaning of subdivision (b) of Section 4512.

(B) Require the services described in this section to meet both a recreational and socialization need, or prohibit the purchase of one-on-one services, including private lessons.

(C) In order to further the legislative intent of making such services widely available to consumers, generally prohibit or disfavor purchase of these services.

(c) (1) The department shall prioritize and expedite any policies, procedures, or written directives that may be necessary to facilitate regional center efforts to increase access, collect data, or track expenditures pertaining to these services.

(2) (A) By October 1, 2024, regional centers shall designate one or more employees to serve as a point of contact for consumers, families, caregivers, and stakeholders regarding access to social recreation services, camping services, and nonmedical therapies, and any policies, procedures, or written directives related to these services. Regional centers shall provide the department with the names and contact information of these designees by October 1, 2024, and shall provide an updated list of designees semiannually thereafter.

(B) By January 1, 2025, regional centers shall adopt procedures aimed at increasing the availability of vendors and expediting vendorizations accordingly. These efforts shall include procedures that enable services described in this section, including, but not limited to, nonmedical therapies, to be funded directly through participant-directed services, consistent with directives or other guidance issued by the department pursuant to subdivision (e), without the need for consumers, family members, or other representatives to be reimbursed after paying for services or supports upfront. Furthermore, payments for these services shall be aligned with the typical processes used by local businesses or community resources.

(d) Effective July 1, 2023, a regional center shall not require a consumer or family member to do any of the following:

(1) Exhaust services under the In-Home Supportive Services program (Article 7 (commencing with Section 12300) of Chapter 3 of Part 3 of Division 9) in order for their regional center to consider funding or to authorize purchasing social recreation services, camping services, and nonmedical therapies, including, but not limited to, specialized recreation, art, dance, and music.

(2) Exchange respite hours or any other service or support authorized by the regional center for service hours of social recreation services, camping services, or nonmedical therapies, including, but not limited to, specialized recreation, art, dance, and music, as a condition of service authorization by the regional center of social recreation services, camping services, and nonmedical therapies.

(3) Pay a copayment, or a similar shared pay arrangement aimed at offsetting costs, in order to receive social recreation services, camping services, or nonmedical therapies, including, but not limited to, specialized recreation, art, dance, and music.

(e) Notwithstanding the rulemaking provisions of the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code), the department may implement the provision of social recreation services, camping services, and nonmedical therapies, including, but not limited to, specialized recreation, art, dance, and music, by means of written directives or similar instructions consistent with this section, including, but not limited to, the provision of those services as participant-directed services.

(f) (1) (A) By March 1, 2025, regional center staff, including supervisors, program managers, appeals hearing specialists, and employees who are involved in developing and implementing purchase-of-service policies, shall complete training about the services described in this section. The training curriculum shall include, at a minimum, statutes, directives, and policies related to social recreation services, camping services, and nonmedical therapies, including, but not limited to, the requirements and legislative intent of this section.

(B) By March 1, 2025, regional centers shall make any training curriculum or materials or other information utilized as part of the training described in subparagraph (A), along with the dates that training was provided to regional center staff, available on the corresponding regional center's internet website.

(2) Training for appeals hearing officers, as required by subdivision (b) of Section 4712, shall include information about statutes, directives, and policies related to social recreation services, camping services, and nonmedical therapies, including, but not limited to, the requirements and legislative intent of this section.

(g) As part of its quarterly briefings to the Legislature pursuant to Section 4474.17, the department shall provide, at a minimum, all of the following information on the status of implementation of this section:

(1) The number, subject matter, and status or outcome of complaints, received by the Office of Community Operations or by the ombudsperson, related to consumer requests for social recreation, camp, or nonmedical therapies.

(2) The numbers and summaries of community concerns and issues obtained by the department pertaining to regional center purchase-of-service policies and procedures regarding the services and supports described in this section. These summaries shall be itemized by regional center and shall include the dates and sources of the concerns or issues.

(3) Trends in mediations, appeals, and hearing requests regarding the services and supports described in this section, including, but not limited to, trends related to the number of mediations and appeals by regional center, mediation outcomes, and nature of issues heard and decided on appeal.

(4) A summary of any technical assistance provided to regional centers or other department actions taken based on the information described in this subdivision for the purpose of ensuring and improving timely and equitable consumer access to services and supports pursuant to this section and consistent with legislative intent.

(5) All data reporting regarding the services described in this section, as required by paragraph (8) of subdivision (a) of Section 4519.5, including the total and per capita expenditure and authorization amounts by age, as applicable, according to race or ethnicity and preferred language, for all combined residence types and for consumers living in the family home.

(Amended by Stats. 2024, Ch. 47, Sec. 11. (AB 162) Effective July 2, 2024.)

4688.3. (a) The State Department of Health Care Services and the department shall jointly seek a federal Centers for Medicare and Medicaid Services' (CMS) approved 1915(i) state plan amendment to expand federal financial participation for services to persons with developmental disabilities provided by regional centers pursuant to Division 4.5 (commencing with Section 4500).

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

(c) If CMS approves the state plan amendment pursuant to Section 1915(i) of the Social Security Act, the Director of Health Care Services shall execute a declaration stating that this approval has been granted. The director shall retain the declaration and this section shall be implemented commencing on the date that the director executes a declaration pursuant to this subdivision.

(d) The department may adopt regulations to implement this section and any sections in Division 4.5 (commencing with Section 4500) necessary to implement the terms of the 1915(i) state plan amendment. The adoption, amendment, repeal, or readoption of a regulation authorized by this section is deemed to be necessary for the immediate preservation of the public peace, health and safety, or general welfare, for purposes of Sections 11346.1 and 11349.9 of the Government Code, and the department is hereby exempted from that requirement. For purposes of subdivision (e) of Section 11346.1 of the Government Code, the 120-day period, as applicable to the effective period of an emergency regulatory action and submission of specified materials to the Office of Administrative Law, is hereby extended to 180 days.

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

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

(g) The State Department of Health Care Services shall post a copy of, or a link to, the approved state plan amendment and any State Department of Developmental Services regulations or program directives, or both, issued pursuant to this section on its Internet Web site.

(Added by Stats. 2009, 4th Ex. Sess., Ch. 9, Sec. 23. Effective July 28, 2009.)

4688.5. (a) Notwithstanding any other provision of law to the contrary, the department may approve a proposal or proposals by Golden Gate Regional Center, Regional Center of the East Bay, and San Andreas Regional Center to provide for, secure, and assure the full payment of a lease or leases on housing, developed pursuant to this section, based on the availability for occupancy in each home, if all of the following conditions are met:

(1) The acquired or developed real property is available for occupancy by individuals eligible for regional center services and is integrated with housing for people without disabilities.

(2) The regional center has approved the proposed ownership entity, management entity, and developer or development entity for each project, and, prior to granting the approval, has consulted with the department and has provided to the department a proposal that includes the credentials of the proposed entities.

(3) The costs associated with the proposal are reasonable.

(4) The proposal includes a plan for a transfer at a time certain of the real property's ownership to a nonprofit entity to be approved by the regional center.

(b) Prior to approving a regional center proposal pursuant to subdivision (a), the department, in consultation with the California Housing Finance Agency and the Department of Housing and Community Development shall review all of the following:

(1) The terms and conditions of the financing structure for acquisition and/or development of the real property.

(2) Any and all agreements that govern the real property's ownership, occupancy, maintenance, management, and operation, to ensure that the use of the property is maintained for the benefit of persons with developmental disabilities.

(c) No sale encumbrance, hypothecation, assignment, refinancing, pledge, conveyance, exchange or transfer in any other form of the real property, or of any of its interest therein, shall occur without the prior written approval of the department and the Health and Human Services Agency.

(d) Notice of the restrictions pursuant to this section shall be recorded against the acquired or developed real property subject to this section.

(e) At least 45 days prior to granting approval under subdivision (c), the department shall provide notice to the chairs and vice chairs of the fiscal committees of the Assembly and the Senate, the Secretary of the Health and Human Services Agency, and the Director of Finance.

(f) The regional center shall not be eligible to acquire or develop real property for the purpose of residential housing.

(Amended by Stats. 2005, Ch. 551, Sec. 1. Effective January 1, 2006.)

4688.6. (a) Notwithstanding any other provision of law to the contrary, the department may receive and approve a proposal or proposals by any regional center to provide for, secure, or ensure the full payment of a lease or leases on housing based on the availability for occupancy in each home. These proposals shall not include an adult residential facility for persons with special health care needs, as defined in Section 1567.50 of the Health and Safety Code. Proposals submitted by regional centers shall meet all of the following conditions:

(1) The acquired or developed real property is available for occupancy by individuals eligible for regional center services and is integrated with other housing in the community for people without disabilities.

(2) The regional center has submitted documents demonstrating the appropriate credentials and terms of the project and has approved the proposed nonprofit ownership entity, management entity, and developer or development entity for each project.

(3) The costs associated with the proposal are reasonable and maximize the receipt of federal Medicaid funding. The department shall only approve proposals that include a process for the regional center to review recent sales of comparable properties to

ensure the purchase price is within the range of fair market value and, if significant renovations of a home will be undertaken after the home is purchased, competing bids for that renovation work to ensure that the cost of the work is reasonable. For purposes of this subdivision, "significant renovations" means renovations that exceed 5 percent of the purchase price of the home.

(4) The proposal includes a plan for a transfer at a time certain of the real property's ownership to a nonprofit entity to be approved by the regional center.

(5) The regional center has submitted, with the proposal, the nonrefundable developer fee established in subdivision (d).

(b) Prior to approving a regional center proposal pursuant to subdivision (a), the department may contract or consult with a public or private sector entity that has appropriate experience in structuring complex real estate financial transactions, but is not otherwise involved in any lending related to the project to review any of the following:

(1) The terms and conditions of the financing structure for acquisition or development of the real property.

(2) Any and all agreements that govern the real property's ownership, occupancy, maintenance, management, and operation, to ensure that the use of the property is maintained for the benefit of persons with developmental disabilities.

(c) The department may impose a limit on the number of proposals considered pursuant to subdivision (a). If a limit is imposed, the department shall notify the Association of Regional Center Agencies.

(d) (1) The department shall charge the developer of the housing described in the regional center proposal a reasonable, nonrefundable fee for each proposal submitted. The fee shall be for the purpose of reimbursing the department's costs associated with conducting the review and approval required by subdivision (b). The fee shall be set by the department within 30 days of the effective date of the act that added this section, and shall be adjusted annually, as necessary, to ensure the payment of the costs incurred by the department.

(2) Fees collected shall be deposited in the Developmental Disabilities Services Account established pursuant to Section 14672.9 of the Government Code and shall be used solely for the purpose of conducting the review and approval required by subdivision (b), upon appropriation by the Legislature. Interest and dividends on moneys collected pursuant to this section shall, notwithstanding Section 16305.7 of the Government Code, be retained in the account for purposes of this section. Moneys deposited in the Developmental Disabilities Services Account pursuant to this subdivision shall not be subject to the requirements of subdivision (i) of Section 14672.9 of the Government Code.

(3) Notwithstanding paragraph (2), for the 2008–09 fiscal year, the Director of Finance may approve an expenditure of up to seventy-five thousand dollars (\$75,000) by the department from moneys deposited in the account for the purposes specified in subdivision (b). In the 2009–10 fiscal year and each fiscal year thereafter, moneys shall be available to the department upon appropriation by the Legislature.

(e) No sale, encumbrance, hypothecation, assignment, refinancing, pledge, conveyance, exchange, or transfer in any other form of the real property, or of any of its interest therein, shall occur without the prior written approval of the department and the regional center.

(f) Notice of the restrictions pursuant to this section shall be recorded against the acquired or developed real property subject to this section.

(g) At least 30 days prior to granting approval under subdivision (e), the department shall provide notice to the chairpersons and vice chairpersons of the fiscal committees of the Assembly and the Senate and the Director of Finance.

(h) The regional center shall not be eligible to acquire or develop real property for the purpose of residential housing.

(i) Unless otherwise authorized by law, a regional center shall not use purchase of service funds to implement this section.

(j) With the exception of funds authorized in paragraph (3) of subdivision (d), this section shall be implemented within the department's annual budget. This subdivision shall not preclude the receipt or use of federal, state non-General Fund, or private funds to implement this section.

(k) The department shall establish guidelines and procedures for the administration of this section.

(Amended by Stats. 2009, Ch. 140, Sec. 190. (AB 1164) Effective January 1, 2010.)

4689. Consistent with state and federal law, the Legislature places a high priority on providing opportunities for adults with developmental disabilities, regardless of the degree of disability, to live in homes that they own or lease with support available as often and for as long as it is needed, when that is the preferred objective in the individual program plan. In order to provide opportunities for adults to live in their own homes, the following procedures shall be adopted:

(a) The department and regional centers shall ensure that supported living arrangements adhere to the following principles:

(1) Consumers shall be supported in living arrangements that are typical of those in which persons without disabilities reside.

(2) The services or supports that a consumer receives shall change as their needs change without the consumer having to move elsewhere.

(3) The consumer's preference shall guide decisions concerning where and with whom the consumer lives.

(4) Consumers shall have control over the environment within their own home.

(5) The purpose of furnishing services and supports to a consumer shall be to assist that individual to exercise choice in their life while building critical and durable relationships with other individuals.

(6) The services or supports shall be flexible and tailored to a consumer's needs and preferences.

(7) Services and supports are most effective when furnished where a person lives and within the context of the person's day-to-day activities.

(8) Consumers shall not be excluded from supported living arrangements based solely on the nature and severity of their disabilities.

(b) Regional centers may contract with agencies or individuals to assist consumers in securing their own homes and to provide consumers with the supports needed to live in their own homes.

(c) The range of supported living services and supports available include, but are not limited to, assessment of consumer needs; assistance in finding, modifying and maintaining a home; facilitating circles of support to encourage the development of unpaid and natural supports in the community; advocacy and self-advocacy facilitation; development of employment goals; social, behavioral, and daily living skills training and support; development and provision of 24-hour emergency response systems; securing and maintaining adaptive equipment and supplies; recruiting, training, and hiring individuals to provide personal care and other assistance, including in-home supportive services workers, paid neighbors, and paid roommates; providing respite and emergency relief for personal care attendants; and facilitating community participation. Assessment of consumer needs may begin before 18 years of age to enable the consumer to move to their own home when they reach 18 years of age.

(d) Regional centers shall provide information and education to consumers and their families about supported living principles and services.

(e) Regional centers shall monitor and ensure the quality of services and supports provided to individuals living in homes that they own or lease. Monitoring shall take into account all of the following:

(1) Adherence to the principles set forth in this section.

(2) Whether the services and supports outlined in the consumer's individual program plan are congruent with the choices and needs of the individual.

(3) Whether services and supports described in the consumer's individual program plan are being delivered.

(4) Whether services and supports are having the desired effects.

(5) Whether the consumer is satisfied with the services and supports.

(f) The planning team, established pursuant to subdivision (j) of Section 4512, for a consumer receiving supported living services shall confirm that all appropriate and available sources of natural and generic supports have been utilized to the fullest extent possible for that consumer.

(g) Regional centers shall utilize the same supported living provider for consumers who reside in the same domicile, provided that each individual consumer's particular needs can still be met pursuant to their individual program plans.

(h) Rent, mortgage, and lease payments of a supported living home and household expenses shall be the responsibility of the consumer and any roommate who resides with the consumer.

(i) A regional center may make rent, mortgage, or lease payments on a supported living home, or pay for household expenses of consumers receiving supported living services only under the following circumstances:

(1) If all of the following conditions are met, a regional center may make rent, mortgage, or lease payments as follows:

(A) The regional center executive director verifies in writing that making the rent, mortgage, or lease payments or paying for household expenses is required to meet the specific care needs unique to the individual consumer as set forth in an addendum to the consumer's individual program plan, and is required when a consumer's demonstrated risk of homelessness, medical, behavioral, or psychiatric condition presents a health and safety risk to the consumer or another.

(B) During the time period that a regional center is making rent, mortgage, or lease payments, or paying for household expenses, the supported living services vendor shall assist the consumer in accessing all sources of generic and natural

supports consistent with the needs of the consumer.

(C) The regional center shall not make rent, mortgage, or lease payments on a supported living home or pay for household expenses for more than six months, unless the regional center finds that it is necessary to meet the individual consumer's particular needs pursuant to the consumer's individual program plan. The regional center shall review a finding of necessity on a quarterly basis and the regional center executive director shall annually verify in an addendum to the consumer's individual program plan that the requirements set forth in subparagraph (A) continue to be met.

(2) A regional center that has been contributing to rent, mortgage, or lease payments or paying for household expenses prior to July 1, 2009, shall at the time of development, review, or modification of a consumer's individual program plan determine if the conditions in paragraph (1) are met. If the planning team determines that these contributions are no longer appropriate under this section, a reasonable time for transition, not to exceed six months, shall be permitted.

(j) All paid roommates and live-in support staff in supported living arrangements in which regional centers have made rent, mortgage, or lease payments, or have paid for household expenses pursuant to subdivision (i) shall pay their share of the rent, mortgage, or lease payments or household expenses for the supported living home, subject to the requirements of Industrial Welfare Commission Order No. 15-2001 and the Housing Choice Voucher Program, as set forth in Section 1437f of Title 42 of the United States Code.

(k) Regional centers shall ensure that the supported living services vendors' administrative costs are necessary and reasonable, given the particular services that they are providing and the number of consumers to whom the vendor provides services. Administrative costs shall be limited to allowable costs for community-based day programs, as defined in Section 57434 of Title 17 of the California Code of Regulations, or its successor.

(l) Regional centers shall ensure that the most cost effective of the rate methodologies is utilized to determine the negotiated rate for vendors of supported living services, consistent with Section 4689.8 and Title 17 of the California Code of Regulations.

(m) For purposes of this section, "household expenses" means general living expenses and includes, but is not limited to, utilities paid and food consumed within the home.

(n) A supported living services provider shall provide assistance to a consumer who is a Medi-Cal beneficiary in applying for in-home supportive services, as set forth in Section 12300, within five days of the consumer moving into a supported living services arrangement.

(o) For consumers receiving supported living services who share a household with one or more adults receiving supported living services, efficiencies in the provision of service may be achieved if some tasks can be shared, meaning the tasks can be provided at the same time while still ensuring that each person's individual needs are met. These tasks shall only be shared to the extent they are permitted under the Labor Code and related regulations, including, but not limited to, Industrial Welfare Commission Minimum Wage Order No. 15. The planning team, as defined in subdivision (j) of Section 4512, at the time of development, review, or modification of a consumer's individual program plan (IPP), for housemates currently in a supported living arrangement or planning to move together into a supported living arrangement, or for consumers who live with a housemate not receiving supported living services who is responsible for the task, shall consider, with input from the service provider, whether any tasks, such as meal preparation and cleanup, menu planning, laundry, shopping, general household tasks, or errands can appropriately be shared. If tasks can be appropriately shared, the regional center shall purchase the prorated share of the activity. Upon a determination of a reduction in services pursuant to this section, the regional center shall inform the consumer of the reason for the determination, and shall provide a written notice of fair hearing rights pursuant to Section 4701.

(p) (1) To ensure that consumers in or entering into supported living arrangements receive the appropriate amount and type of supports to meet the person's choice and needs as determined by the IPP team, and that generic resources are utilized to the fullest extent possible, the IPP team shall complete a standardized assessment questionnaire at the time of development, review, or modification of a consumer's IPP. The questionnaire shall be used during the individual program plan meetings, in addition to the provider's assessment, to assist in determining whether the services provided or recommended are necessary and sufficient and that the most cost-effective methods of supported living services are utilized. With input from stakeholders, including regional centers, the department shall develop and post the questionnaire on its internet website, and, by June 30, 2012, shall provide it to the regional centers.

(2) Supported living service providers shall conduct comprehensive assessments for the purpose of getting to know the consumer they will be supporting and developing a support plan congruent with the choices and needs of the individual and consistent with the principles of supported living set forth in this section and in Subchapter 19 (commencing with Section 58600) of Chapter 3 of Division 2 of Title 17 of the California Code of Regulations. The independent assessment required by this paragraph is not intended to take the place of or repeat the service provider's comprehensive assessment.

(3) Upon a determination of a reduction in services pursuant to this section, the regional center shall inform the consumer of the reason for the determination, and shall provide a written notice of fair hearing rights pursuant to Section 4701.

(4) This section does not preclude the completion of an independent assessment.

4689.05. (a) A regional center shall not purchase supportive services, as defined in Section 12300, for a consumer who meets the criteria to receive, but declines to apply for, in-home supportive services (IHSS) benefits, as set forth in Section 12300, except as set forth in subdivision (d).

(b) Consistent with Section 4648, a regional center shall not purchase supported living services for a consumer to supplant IHSS.

(c) Between the date that a consumer applies for IHSS and the date that a consumer's application for IHSS is approved, a regional center shall not purchase supportive services for the consumer at a rate that exceeds the IHSS hourly rate, which includes the IHSS provider hourly wage, the provider's hourly payroll taxes, and the hourly administrative costs, for the county in which the consumer resides.

(d) A regional center executive director may waive the requirements set forth in subdivision (a) if the executive director finds that extraordinary circumstances warrant the waiver, and that a finding is documented in an addendum to the consumer's individual program plan.

(Added by Stats. 2009, 4th Ex. Sess., Ch. 9, Sec. 25. Effective July 28, 2009.)

4689.1. (a) The Legislature declares that it places a high priority on providing opportunities for adults with developmental disabilities to live with families approved by family home agencies and to receive services and supports in those settings as determined by the individual program plan. Family home agencies may offer services and supports in family homes or family teaching homes. All requirements of this section and Sections 4689.2 to 4689.6, inclusive, shall apply to a family home and a family teaching home.

(b) For purposes of this section, "family home" means a home that is owned, leased, or rented by, and is the family residence of, the family home provider or providers, and in which services and supports are provided to a maximum of two adults with developmental disabilities regardless of their degree of disability, and who do not require continuous skilled nursing care.

(c) For purposes of this section, "family teaching home" means a home that is owned, leased, or rented by the family home agency wherein the family home provider and the individual have independent residences, either contiguous or attached, and in which services and supports are provided to a maximum of three adults with developmental disabilities regardless of their degree of disability, and who do not require continuous skilled nursing care.

(d) For purposes of this section, "family home agency" means a private for-profit or not-for-profit agency that is vendored to do all of the following:

- (1) Recruit, approve, train, and monitor family home providers.
- (2) Provide social services and in-home support to family home providers.
- (3) Assist adults with developmental disabilities in moving into approved family homes.

(e) For purposes of ensuring that regional centers may secure high-quality services that provide supports in natural settings and promote inclusion and meaningful participation in community life for adults with developmental disabilities, the department shall promulgate regulations for family home agencies, family teaching homes, and family homes that shall include, but not be limited to, standards and requirements related to all of the following:

(1) Selection criteria for regional centers to apply in vendoring family home agencies, including, but not limited to, all of the following:

- (A) The need for service.
- (B) The experience of the agency or key personnel in providing the same or comparable services.
- (C) The reasonableness of the agency's overhead.
- (D) The capability of the regional center to monitor and evaluate the vendor.

(2) Vendorization.

(3) Operation of family home agencies, including, but not limited to, all of the following:

- (A) Recruitment.
- (B) Approval of family homes.

(C) Qualifications, training, and monitoring of family home providers.

(D) Assistance to consumers in moving into approved family homes.

(E) The range of services and supports to be provided.

(F) Family home agency staffing levels, qualifications, and training.

(4) Program design.

(5) Program and consumer records.

(6) Family homes.

(7) Rates of payment for family home agencies and approved family home providers. Regional center reimbursement to family home agencies for services in a family home shall not exceed rates established pursuant to subdivision (b) of Section 4681.5 for individuals who reside in a community care facility, as defined in Section 1502 of the Health and Safety Code, that is vendored for four beds or fewer.

(8) The department and regional center's monitoring and evaluation of the family home agency and approved homes, which shall be designed to ensure that services do all of the following:

(A) Conform to applicable laws and regulations and provide for the consumer's health and well-being.

(B) Assist the consumer in understanding and exercising their individual rights.

(C) Are consistent with the family home agency's program design and the consumer's individual program plan.

(D) Maximize the consumer's opportunities to have choices in where the consumer lives, works, and socializes.

(E) Provide a supportive family home environment, available to the consumer 24 hours per day, that is clean, comfortable, and accommodating to the consumer's cultural preferences, values, and lifestyle.

(F) Are satisfactory to the consumer, as indicated by the consumer's quality of life as assessed by the consumer, their family, and, if appointed, conservator, or significant others, or all of these, as well as by evaluation of outcomes relative to individual program plan objectives.

(9) Monthly monitoring visits by family home agency social service staff to approved family homes and family teaching homes.

(10) Procedures whereby the regional center and the department may enforce applicable provisions of law and regulation, investigate allegations of abuse or neglect, and impose sanctions on family home agencies and approved family homes and family teaching homes, including, but not limited to, all of the following:

(A) Requiring movement of a consumer from a family home under specified circumstances.

(B) Termination of approval of a family home or family teaching home.

(C) Termination of the family home agency's vendorization.

(11) Appeal procedures.

(f) Each adult with developmental disabilities placed in a family home or family teaching home shall have the rights specified in this division, including, but not limited to, the rights specified in Section 4503.

(g) Prior to placement in a family home of an adult with developmental disabilities who has a conservator, consent of the conservator shall be obtained.

(h) The adoption of any emergency regulations to implement this section that are filed with the Office of Administrative Law within one year of the date on which the act that added this section took effect shall be deemed to be an emergency and necessary for the immediate preservation of the public peace, health and safety, or general welfare.

(Amended by Stats. 2023, Ch. 44, Sec. 22. (AB 121) Effective July 10, 2023.)

4689.2. (a) It is the intent of the Legislature in enacting this section to require the filing of fingerprints of those individuals whose contact with consumers receiving services and supports from family home agencies, as defined in subdivision (c) of Section 4689.1, and family homes, as defined in subdivision (b) of Section 4689.1, may pose a risk to the consumers' health and safety.

(b) As part of the vendor approval process for family home agencies and family homes, the State Department of Developmental Services shall secure from the Department of Justice and, if applicable, the Federal Bureau of Investigation, a full criminal history to

determine whether the applicant or any other person specified in subdivision (c) has ever been convicted of, or arrested for, a crime other than a minor traffic violation. If it is found that the applicant, or any other person specified in subdivision (c), has been convicted of, or is awaiting trial for, a crime other than a minor traffic violation, the vendor application shall be denied, unless the director grants an exemption pursuant to subdivision (f). If no criminal record information has been recorded, the Department of Justice shall provide the applicant and the State Department of Developmental Services with a statement of that fact.

(c) In addition to the applicant, this section shall be applicable to criminal convictions of the following persons:

(1) Adults responsible for administration or direct supervision of staff.

(2) Any adult other than a consumer residing in the family home.

(3) Any adult who provides assistance to the consumer in dressing, grooming, bathing, or personal hygiene.

(4) Any staff person, employee, consultant, or volunteer who has frequent and routine contact with the consumer. In determining who has frequent contact, any consultant or volunteer shall be exempt unless the volunteer is used to replace or supplement staff or family home personnel in providing services or supports, or both, to consumers. In determining who has routine contact, staff and employees under direct onsite supervision of the family home agency and who are not providing direct services and supports or who have only occasional or intermittent contact with consumers shall be exempt.

(5) The executive director of the entity applying for vendorization or other person serving in like capacity.

(6) Officers of the governing body of the applicant, or other persons with a financial interest in the applicant, as determined necessary by the department by regulation. The criteria used in the development of these regulations shall be based on the person's capability to exercise substantial influence over the operation of the family home agency or family home.

(d) (1) Subsequent to vendorization, any person specified in subdivision (c) and not exempted from fingerprinting shall, as a condition to employment, residence, or presence in a family home agency or a family home, be fingerprinted and sign a declaration under penalty of perjury regarding any prior criminal convictions. The vendor shall submit these fingerprints to the Department of Justice not later than four calendar days following employment, residence, or initial presence in the family home agency or family home. These fingerprints shall be on a card provided by the State Department of Developmental Services for the purpose of obtaining a permanent set of fingerprints. If fingerprints are not submitted to the Department of Justice, as required in this section, that failure shall result in a sanction and the fingerprints shall then be submitted to the State Department of Developmental Services for processing. Upon request of the vendor, who shall enclose a self-addressed stamped postcard for this purpose, the Department of Justice shall verify receipt of the fingerprints.

(2) Within 30 calendar days of the receipt of the fingerprints, the Department of Justice shall notify the State Department of Developmental Services of the criminal record information, as provided in subdivision (b). If no criminal record information has been recorded, the Department of Justice shall provide the vendor and the State Department of Developmental Services with a statement of that fact within 15 calendar days of receipt of the fingerprints. If new fingerprints are required for processing, the Department of Justice shall, within 15 calendar days from the date of receipt of the fingerprints, notify the vendor that the fingerprints were illegible.

(3) (A) Except for persons specified in paragraph (2) of subdivision (c), the vendor shall endeavor to ascertain the previous employment history of persons required to be fingerprinted under this subdivision. If it is determined by the State Department of Developmental Services, on the basis of the fingerprints submitted to the Department of Justice, that the person has been convicted of, or is awaiting trial for, a sex offense against a minor, or has been convicted for an offense specified in Section 243.4, 273a, 273d, or subdivision (a) or (b) of Section 368 of the Penal Code, or has been convicted of a felony, the State Department of Developmental Services shall notify the vendor to act immediately to terminate the person's employment, remove the person from the family home, or bar the person from entering the family home. The State Department of Developmental Services may subsequently grant an exemption pursuant to subdivision (f).

(B) If the conviction or arrest was for another crime, except a minor traffic violation, the vendor shall, upon notification by the State Department of Developmental Services, act immediately to do either of the following:

(i) Terminate the person's employment, remove the person from the family home, or bar the person from entering the family home.

(ii) Seek an exemption pursuant to subdivision (f). The State Department of Developmental Services shall determine if the person shall be permitted to remain in the family home until a decision on the exemption is rendered.

(e) For purposes of this section or any other provision of this chapter, a conviction means a plea or verdict of guilty or a conviction following a plea of nolo contendere. Any action that the State Department of Developmental Services is permitted to take following the establishment of a conviction may be taken when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal or when an order granting probation is made suspending the imposition of sentence, notwithstanding a

subsequent order pursuant to Sections 1203.4 and 1203.4a of the Penal Code permitting the person to withdraw his or her plea of guilty, or dismissing the accusation, information, or indictment. For purposes of this section or any other provision of this chapter, the record of a conviction, or a copy thereof certified by the clerk of the court or by a judge of the court in which the conviction occurred, shall be conclusive evidence of the conviction. For purposes of this section or any other provision of this chapter, the arrest disposition report certified by the Department of Justice and, if applicable, the Federal Bureau of Investigation, or documents admissible in a criminal action pursuant to Section 969b of the Penal Code, shall be prima facie evidence of the conviction, notwithstanding any other provision of law prohibiting the admission of these documents in a civil or administrative action.

(f) After review of the record, the Director of Developmental Services may grant an exemption from denial of vendor approval pursuant to subdivision (b), or for employment in a family home agency or family home of residence or presence in a family home as specified in subdivision (c), if the director has substantial and convincing evidence to support a reasonable belief that the applicant and the person convicted of the crime, if other than the applicant, are of such good character as to justify vendor approval or granting an exemption for purposes of subdivision (c). Except as otherwise provided in this subdivision, no exemption shall be granted if the conviction was for an offense specified in Section 220, 243.4, 264.1, paragraph (1) of subdivision (a) of Section 273a, Section 273d, 288, 289, or subdivision (a) or (b) of Section 368 of the Penal Code, or for another crime against an individual specified in subdivision (c) of Section 667.5 of the Penal Code. The director may grant an exemption if the employee, prospective employee, or other person identified in subdivision (c) who was convicted of a crime against an individual in paragraph (1), (2), (7), or (8) of subdivision (c) of Section 667.5 of the Penal Code, has been rehabilitated as provided in Section 4852.03 of the Penal Code and has maintained the conduct required in Section 4852.05 of the Penal Code for at least 10 years and has the recommendation of the district attorney representing the employee's county of residence, or if the employee, prospective employee, or other persons identified in subdivision (c) has received a certificate of rehabilitation pursuant to Chapter 3.5 (commencing with Section 4852.01) of Title 6 of Part 3 of the Penal Code.

(g) For purposes of compliance with this section, the department may permit an individual to transfer a current criminal record clearance, as described in subdivision (b), from one family home agency or family home to another, as long as the criminal record clearance has been processed through the State Department of Developmental Services.

(h) If a family home agency or a family home is required by law to deny employment or to terminate employment of any employee based on written notification from the state department pursuant to subdivision (c) the family home agency or the family home shall not incur civil liability or unemployment insurance liability as a result of that denial or termination.

(Amended by Stats. 1995, Ch. 546, Sec. 1. Effective January 1, 1996.)

4689.3. (a) A family home agency shall not place an adult with developmental disabilities in a family home until the family home agency has received a criminal record clearance from the State Department of Developmental Services pursuant to Section 4689.2, except as provided in subdivisions (b) and (c).

(b) Any peace officer, or other category of person approved by the department subject to criminal record clearance as a condition of employment, and who has submitted fingerprints and executed a declaration regarding criminal convictions, may receive an adult with developmental disabilities in placement pending the receipt of a criminal record clearance when the family home has met all other requirements for vendor approval.

(c) Any person currently approved as a vendor pursuant to this chapter by the department when the family home has met all other requirements, and who has submitted fingerprints and executed a declaration regarding criminal convictions, may receive, or continue, an adult with developmental disabilities in placement pending the receipt of a criminal record clearance.

(Added by Stats. 1994, Ch. 1095, Sec. 9. Effective September 29, 1994.)

4689.4. The State Department of Developmental Services may deny an application for vendorization or terminate vendorization as a family home agency or family home upon the grounds that the applicant for vendorization, the vendor, or any other person mentioned in Section 4689.2 has been convicted at any time of a crime, except a minor traffic violation.

(Added by Stats. 1994, Ch. 1095, Sec. 10. Effective September 29, 1994.)

4689.5. (a) Proceeding for the termination, or denial of vendorization as a family home agency or family home pursuant to Section 4689.4 shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, and the State Department of Developmental Services shall have all the powers granted by Chapter 5. In the event of conflict between this section and Chapter 5, Chapter 5 shall prevail.

(b) In all proceedings conducted in accordance with this section, the standard of proof to be applied shall be a preponderance of the evidence.

(c) The hearing shall be held within 90 calendar days after receipt of the notice of defense, unless a continuance of the hearing is granted by the department or the administrative law judge. When the matter has been set for hearing, only the administrative law judge may grant a continuance of the hearing. The administrative law judge may grant a continuance of the hearing, but only upon finding the existence of one or more of the following:

(1) The death or incapacitating illness of a party, a representative or attorney of a party, a witness to an essential fact, or of the parent, child, or member of the household of that person, when it is not feasible to substitute another representative, attorney, or witness because of the proximity of the hearing date.

(2) Lack of notice of hearing as provided in Section 11509 of the Government Code.

(3) A material change in the status of the case where a change in the parties or pleadings requires postponement, or an executed settlement or stipulated findings of fact obviate the need for hearing. A partial amendment of the pleadings shall not be good cause for continuance to the extent that the unamended portion of the pleadings is ready to be heard.

(4) A stipulation for continuance signed by all parties or their authorized representatives that is communicated with the request for continuance to the administrative law judge no later than 25 business days before the hearing.

(5) The substitution of the representative or attorney of a party upon showing that the substitution is required.

(6) The unavailability of a party, representative, or attorney of a party, or witness to an essential fact due to a conflicting and required appearance in a judicial matter if when the hearing date was set, the person did not know and could neither anticipate nor at any time avoid the conflict, and the conflict with request for continuance is immediately communicated to the administrative law judge.

(7) The unavailability of a party, a representative or attorney of a party, or a material witness due to an unavoidable emergency.

(8) Failure by a party to comply with a timely discovery request if the continuance request is made by the party who requested the discovery.

(d) In addition to the witness fees and mileage provided by Section 11450.40 of the Government Code, the department may pay actual, necessary, and reasonable expenses in an amount not to exceed the per diem allowance payable to a nonrepresented state employee on travel status. The department may pay witness expenses in advance of the hearing.

(Amended by Stats. 1995, Ch. 938, Sec. 94. Effective January 1, 1996. Operative July 1, 1997, by Sec. 98 of Ch. 938.)

4689.6. (a) The State Department of Developmental Services may prohibit a vendor from employing, or continuing the employment of, or allowing in a family home, or allowing contact with any adult with a developmental disability placed in a family home by, any employee or prospective employee, who has been denied an exemption to work or to be present in a facility, when that person has been convicted of a crime, except a minor traffic violation.

(b) The employee or prospective employee, and the vendor shall be given written notice of the basis of the department's action and of the employee's or prospective employee's right to a hearing. The notice shall be served either by personal service or by registered mail. Within 15 days after the department serves the notice, the employee or prospective employee may file with the department a written request for a hearing. If the employee or prospective employee fails to file a written request for a hearing within the prescribed time, the department's action shall be final.

(c) (1) The department may require the immediate exclusion of an employee or prospective employee from a family home agency or family home pending a final decision of the matter, when, in the opinion of the director, the action is necessary to protect any adult with a developmental disability placed in the family home from physical or mental abuse, abandonment, or any other substantial threat to his or her health and safety.

(2) If the department requires the immediate exclusion of an employee or prospective employee from a family home agency or family home, the department shall serve an order of immediate exclusion upon the employee or prospective employee that shall notify the employee or prospective employee of the basis of the department's action and of the employee's or prospective employee's right to a hearing.

(3) Within 15 days after the department serves an order of immediate exclusion, the employee or prospective employee may file a written request for a hearing with the department. The department's action shall be final if the employee or prospective employee does not file a request for a hearing within the prescribed time. The department shall do the following upon receipt of a written request for a hearing:

(A) Within 80 days of receipt of the request for a hearing, serve an accusation upon the employee or prospective employee.

(B) Within 60 days of receipt of a notice of defense by the employee or prospective employee pursuant to Section 11506 of the Government Code, conduct a hearing on the statement of issues.

(4) An order of immediate exclusion of the employee or prospective employee from the family home agency or family home shall remain in effect until the hearing is completed and the director has made a final determination on the merits. However, the order of

immediate exclusion shall be deemed vacated if the director fails to make a final determination on the merits within 60 days after the original hearing has been completed.

(d) An employee or prospective employee who files a written request for a hearing with the department pursuant to this section shall, as part of the written request, provide his or her current mailing address. The employee or prospective employee shall subsequently notify the department in writing of any change in mailing address, until the hearing process has been completed or terminated.

(e) Hearings held pursuant to this section shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code. The standard of proof shall be the preponderance of the evidence and the burden of proof shall be on the department.

(f) The department may institute or continue a disciplinary proceeding against an employee or prospective employee upon any ground provided by this section, or enter an order prohibiting the employee's or prospective employee's employment or presence in the family home agency or family home or otherwise take disciplinary action against the employee or prospective employee, notwithstanding any resignation, withdrawal of employment application, or change of duties by the employee or prospective employee, or any discharge, failure to hire, or reassignment of the employee or prospective employee by the vendor.

(g) A vendor's failure to comply with the department's prohibition of employment or presence in the family home agency or family home shall be grounds for disciplining the vendor pursuant to Section 4689.4.

(Added by Stats. 1994, Ch. 1095, Sec. 12. Effective September 29, 1994.)

4689.7. (a) For the 1998–99 fiscal year, levels of payment for supported living service providers that are vendored pursuant to Section 4689 shall be increased based on the amount appropriated in this section for the purpose of increasing the salary, wage, and benefits for direct care workers providing supported living services.

(b) The sum of five million fifty-seven thousand dollars (\$5,057,000) is hereby appropriated in augmentation of the appropriations made in the Budget Act of 1998 to implement this section as follows:

(1) The sum of two million four hundred five thousand dollars (\$2,405,000) is hereby appropriated from the General Fund to the State Department of Health Services in augmentation of the appropriation made in Item 4260-101-0001.

(2) The sum of two million five hundred fifty-one thousand dollars (\$2,551,000) is hereby appropriated from the Federal Trust Fund to the State Department of Health Services in augmentation of the appropriation made in Item 4260-101-0890.

(3) The sum of one hundred one thousand dollars (\$101,000) is hereby appropriated from the General Fund to the Department of Developmental Services in augmentation of the appropriation made in Item 4300-101-0001, scheduled as follows:

10.10—Regional Centers	
(b) 10.10.020 Purchase of Services	\$5,057,000
(e) Reimbursements	–\$4,956,000

(c) By July 1, 2002, in consultation with stakeholder organizations, the department shall establish by regulation, an equitable and cost-effective methodology for the determination of supported living costs and a methodology of payment for providers of supported living services. The methodology shall consider the special needs of persons with developmental disabilities and the quality of services to be provided.

(Amended by Stats. 2000, Ch. 93, Sec. 48. Effective July 7, 2000.)

4689.8. Notwithstanding any other law or regulation, commencing July 1, 2008:

(a) No regional center may pay an existing supported living service provider, for services where rates are determined through a negotiation between the regional center and the provider, a rate higher than the rate in effect on June 30, 2008, unless the increase is required by a contract between the regional center and the vendor that is in effect on June 30, 2008, or the regional center demonstrates that the approval is necessary to protect the consumer's health or safety and the department has granted prior written authorization.

(b) No regional center may negotiate a rate with a new supported living service provider, for services where rates are determined through a negotiation between the regional center and the provider, that is higher than the regional center's median rate for the same service code and unit of service, or the statewide median rate for the same service code and unit of service, whichever is lower. The unit of service designation shall conform with an existing regional center designation or, if none exists, a designation used to calculate the statewide median rate for the same service. The regional center shall annually certify to the State Department of

Developmental Services its median rate for each negotiated rate service code, by designated unit of service. This certification shall be subject to verification through the department's biennial fiscal audit of the regional center.

(c) Notwithstanding any other law or regulation, commencing July 1, 2016, and to the extent funds are appropriated in the annual Budget Act for this purpose, the rates in effect on June 30, 2016, for supported living services, as defined in Subchapter 19 of Chapter 3 of Division 2 of Title 17 of the California Code of Regulations, shall be increased by 5 percent. The increase shall be applied as a percentage, and the percentage shall be the same for all providers.

(Amended by Stats. 2016, 2nd Ex. Sess., Ch. 3, Sec. 5. (AB 1 2x) Effective June 9, 2016.)