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AB-1 Developmental services: Medi-Cal: funding. (2015-2016)

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Assembly Bill No. 1

CHAPTER 3

An act to amend Sections 4519.5, 4639.5, 4652.5, 4689.8, 4690.5, 4691.6, 4691.9, and 4860 of, and to add Sections 4519.8, 4691.10, 4691.11, 4870, 14105.075, and 14105.195 to, the Welfare and Institutions Code, relating to human services financing, and making an appropriation therefor.

[Approved by Governor March 01, 2016. Filed with Secretary of State March 01, 2016.]

LEGISLATIVE COUNSEL'S DIGEST

AB 1, Thurmond. Developmental services: Medi-Cal: funding.

The Lanterman Developmental Disabilities Services Act requires the State Department of Developmental Services to contract with regional centers to provide services and supports to individuals with developmental disabilities. Under existing law, regional centers purchase needed services for individuals with developmental disabilities through approved service providers or arrange for those services through other publicly funded agencies. Existing law establishes specified rates and wages to be paid to certain service providers and the rates to be paid for certain developmental services. Existing law requires that rates to be paid to other developmental service providers either be set by the department or negotiated between the regional center and the service provider.

Existing law establishes the Medi-Cal program, administered by the State Department of Health Care Services, under which basic health care services are provided to qualified low-income persons. The Medi-Cal program is, in part, governed and funded by federal Medicaid Program provisions. Existing law requires, except as otherwise provided, Medi-Cal provider payments to be reduced, as specified.

This bill would appropriate a specified sum to the State Department of Developmental Services to, commencing July 1, 2016, among other things, increase rates and wages for certain developmental services providers and fund incentive payments for competitive integrated employment opportunities and internships for individuals with developmental disabilities. The bill would require the department to submit a rate study to specified committees of the Legislature on or before March 1, 2019, regarding community-based services for individuals with developmental disabilities. The bill would require each regional center to report specified information to the department regarding increased funding for regional center operations. The bill would, for dates of service on or after August 1, 2016, increase the payment rates for intermediate care facilities and skilled nursing facilities that provide services to developmentally disabled individuals under the Medi-Cal program, as specified.

The bill would also prohibit the State Department of Health Care Services from seeking to retroactively implement certain Medi-Cal provider payment reductions and limitations with regards to reimbursements for services provided by skilled nursing facilities that are distinct parts of general acute care hospitals for dates of service on or after June 1, 2011, and on or before September 30, 2013, and from seeking to recoup overpayments, as specified.

Existing law requires the department and regional centers to annually collaborate to compile specified data relating to purchase of service authorization, utilization, and expenditure by each regional center. Existing law requires each regional center to annually report to the department regarding the regional center's implementation of these requirements, including whether the data indicates a need to reduce disparities in the purchase of services among consumers in the regional center's catchment area and the regional center's recommendations and plan to promote equity, and reduce disparities, in the purchase of services. Existing law requires the department to consult with specified stakeholders to review the data, develop recommendations to help reduce disparities in purchase of service expenditures, and encourage development and expansion of culturally appropriate services, among other things, and to report the status of its efforts during the 2016–17 legislative budget subcommittee hearing process.

The bill would also require the department, subject to available funding, to allocate funding to regional centers to assist in implementing specified recommendations and plans, including the recommendations and plans of the regional centers to promote equity, and reduce disparities, in the purchase of services.

Existing law requires an entity that receives payments between \$250,000 and \$500,000 per year from one or more regional centers to obtain either an independent audit or an independent review report of its financial statements, and requires an entity that receives payments that are equal to or more than \$500,000 per year to obtain an independent audit.

This bill would instead require an entity that receives payments between \$500,000 and \$2,000,000 from one or more regional centers to obtain an independent review report of its financial statements, and would authorize these entities to apply for, and require the regional center to grant, a 2-year exemption from this requirement if the regional center does not find issues in the independent review report that have an impact on regional center services. The bill would require an entity that receives payments from one or more regional centers that are equal to or more than \$2,000,000 to obtain an independent audit and would authorize these entities to apply for, and require the regional center to grant, a 2-year exemption from the audit requirement if the audit resulted in an unmodified opinion, an unmodified opinion with additional communication, or a qualified opinion with issues that are not material. The bill would require a regional center to annually report to the State Department of Developmental Services any exemptions granted pursuant to these provisions.

Vote: 2/3 Appropriation: yes Fiscal Committee: yes Local Program: no

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 4519.5 of the Welfare and Institutions Code is amended to read:

4519.5. (a) The department and the regional centers shall annually collaborate to compile data in a uniform manner relating to purchase of service authorization, utilization, and expenditure by each regional center with respect to all of the following:

(1) The age of the consumer, categorized by the following:

(A) Birth to two years of age, inclusive.

(B) Three to 21 years of age inclusive.

(C) Twenty-two years of age and older.

(2) Race or ethnicity of the consumer.

(3) Primary language spoken by the consumer, and other related details, as feasible.

(4) Disability detail, in accordance with the categories established by subdivision (a) of Section 4512, and, if applicable, a category specifying that the disability is unknown.

(5) Residence type, subcategorized by age, race or ethnicity, and primary language.

(6) Number of instances when the written copy of the individual program plan was provided at the request of the consumer and, when appropriate, his or her parents, legal guardian or conservator, or authorized representative, in a language other than a threshold language, as defined by paragraph (3) of subdivision (a) of Section 1810.410 of Title 9 of the California Code of Regulations, if that written copy was provided more than 60 days after the request.

(b) The data reported pursuant to subdivision (a) shall also include the number and percentage of individuals, categorized by age, race or ethnicity, and disability, and by residence type, as set forth in paragraph (5) of subdivision (a), who have been determined to be eligible for regional center services but are not receiving purchase of service funds.

(c) By March 31, 2013, each regional center shall post the data described in this section that is specific to the regional center on its Internet Web site. Commencing on December 31, 2013, each regional center shall annually post this data by December 31. Each regional center shall maintain all previous years' data on its Internet Web site.

(d) By March 31, 2013, the department shall post the information described in this section on a statewide basis on its Internet Web site. Commencing December 31, 2013, the department shall annually post this information by December 31. The department shall maintain all previous years' data on its Internet Web site. The department shall also post notice of any regional center stakeholder meetings on its Internet Web site.

(e) Within three months of compiling the data with the department, and annually thereafter, each regional center shall meet with stakeholders in one or more public meetings regarding the data. The meeting or meetings shall be held separately from any meetings held pursuant to Section 4660. The regional center shall provide participants of these meetings with the data and any associated information, and shall conduct a discussion of the data and the associated information in a manner that is culturally and linguistically appropriate for that community, including providing alternative communication services, as required by Sections 11135 to 11139.7, inclusive, of the Government Code and implementing regulations. Regional centers shall inform the department of the scheduling of those public meetings 30 days prior to the meeting. Notice of the meetings shall also be posted on the regional center's Internet Web site 30 days prior to the meeting and shall be sent to individual stakeholders and groups representing underserved communities in a timely manner. Each regional center shall, in holding the meetings required by this subdivision, consider the language needs of the community and shall schedule the meetings at times and locations designed to result in a high turnout by the public and underserved communities.

(f) (1) Each regional center shall annually report to the department regarding its implementation of the requirements of this section. The report shall include, but shall not be limited to, all of the following:

(A) Actions the regional center took to improve public attendance and participation at stakeholder meetings, including, but not limited to, attendance and participation by underserved communities.

(B) Copies of minutes from the meeting and attendee comments.

(C) Whether the data described in this section indicates a need to reduce disparities in the purchase of services among consumers in the regional center's catchment area. If the data does indicate that need, the regional center's recommendations and plan to promote equity, and reduce disparities, in the purchase of services.

(2) Each regional center and the department shall annually post the reports required by paragraph (1) on its Internet Web site by August 31.

(g) (1) The department shall consult with stakeholders, including consumers and families that reflect the ethnic and language diversity of regional center consumers, regional centers, advocates, providers, the protection and advocacy agency described in Section 4901, and those entities designated as University Centers for Excellence in Developmental Disabilities Education, Research, and Service pursuant to Section 15061 of Title 42 of the United States Code, to achieve the following objectives:

(A) Review the data compiled pursuant to subdivision (a).

(B) Identify barriers to equitable access to services and supports among consumers and develop recommendations to help reduce disparities in purchase of service expenditures.

(C) Encourage the development and expansion of culturally appropriate services, service delivery, and service coordination.

(D) Identify best practices to reduce disparity and promote equity.

(2) The department shall report the status of its efforts to satisfy the requirements of paragraph (1) during the 2016–17 legislative budget subcommittee hearing process.

(h) Subject to available funding, the department shall allocate funding to regional centers to assist with implementation of the recommendations and plans developed pursuant to subdivisions (f) and (g). Activities funded through these allocations may include, but are not limited to, pay differentials supporting direct care bilingual staff of community-based service providers, parent or caregiver education programs, cultural competency training for regional center staff, outreach to underserved populations, or additional culturally appropriate service types or service delivery models.

SEC. 2. Section 4519.8 is added to the Welfare and Institutions Code, to read:

4519.8. On or before March 1, 2019, the department shall submit a rate study to the appropriate fiscal and policy committees of the Legislature addressing the sustainability, quality, and transparency of community-based services for individuals with developmental disabilities. The department shall consult with stakeholders, through the developmental services task force process, in developing the study. The study shall include, but not be limited to, all of the following:

(a) An assessment of the effectiveness of the methods used to pay each category of community service provider. This assessment shall include consideration of the following factors for each category of service provider:

(1) Whether the current method of ratesetting for a service category provides an adequate supply of providers in that category, including, but not limited to, whether there is a sufficient supply of providers to enable consumers throughout the state to have a choice of providers, depending upon the nature of the service.

(2) A comparison of the estimated fiscal effects of alternative rate methodologies for each service provider category.

(3) How different rate methodologies can incentivize outcomes for consumers.

(b) An evaluation of the number and type of service codes for regional center services, including, but not limited to, recommendations for simplifying and making service codes more reflective of the level and types of services provided.

SEC. 3. Section 4639.5 of the Welfare and Institutions Code is amended to read:

4639.5. (a) By December 1 of each year, each regional center shall provide a listing to the State Department of Developmental Services a complete current salary schedule for all personnel classifications used by the regional center. The information shall be provided in a format prescribed by the department. The department shall provide this information to the public upon request. From February 1, 2009, to June 30, 2010, inclusive, the requirements of this subdivision shall not apply.

(b) By December 1 of each year, each regional center shall report information to the department on all prior fiscal year expenditures from the regional center operations budget for all administrative services, including managerial, consultant, accounting, personnel, labor relations, and legal services, whether procured under a written contract or otherwise. Expenditures for the maintenance, repair, or purchase of equipment or property shall not be required to be reported for purposes of this subdivision. The report shall be prepared in a format prescribed by the department and shall include, at a minimum, for each recipient the amount of funds expended, the type of service, and purpose of the expenditure. The department shall provide this information to the public upon request. Regional centers shall not be required to prepare or submit the report required by this subdivision in 2009.

(c) Beginning July 1, 2016, and to the extent funds are appropriated in the annual Budget Act for this purpose, the department shall allocate thirty-one million one hundred thousand dollars (\$31,100,000), plus any associated matching funds, to provide a salary increase, benefit increase, or both, excluding unfunded retirement liabilities, for regional center operations. Of this amount, twenty-nine million seven hundred thousand dollars (\$29,700,000) shall be used for salary, benefit increases, or both, for regional center staff, and shall not supplant funding currently scheduled to be used for this purpose. These funds shall not be used to provide salary or benefit increases to regional center executive staff or for unfunded retirement liabilities. The remaining one million four hundred thousand dollars (\$1,400,000) shall be used for an increase for administrative costs, consistent with those specified in subdivision (b) of Section 4629.7, for both regional centers and clients' rights advocates contracts pursuant to subdivision (b) of Section 4433. Regional centers shall maintain documentation, subject to audit, on how this funding was allocated.

(d) By March 10, 2017, and again by October 1, 2017, and in a format prescribed by the department, each regional center shall report the following information to the department:

(1) The total amount provided to staff for purposes of subdivision (c).

(2) The position titles of staff receiving the increase and amounts of increases by title.

(3) The number of service coordinators receiving the increase.

(4) Data on staff turnover.

(5) The classification of expenditures and amount for each of the administrative costs outlined in subdivision (b) of Section 4629.7.

(6) The allocation methodology used by a regional center to distribute the funding.

(7) Any other information determined by the department.

(e) In its 2017–18 May Revision fiscal estimate, the department shall describe the implementation of the increase provided in subdivision (c), including, but not limited to, the data described in subdivision (d), aggregated by regional center and statewide, and the impact of the increase on caseload ratios.

(f) Any regional center that fails to report the information required by subdivision (d) to the department shall forfeit the increases described in subdivision (c).

SEC. 4. Section 4652.5 of the Welfare and Institutions Code is amended to read:

4652.5. (a) (1) An entity that receives payments from one or more regional centers shall contract with an independent accounting firm to obtain an independent audit or independent review report of its financial statements relating to payments made by regional centers, subject to both of the following:

(A) If the amount received from the regional center or regional centers during the entity's fiscal year is more than or equal to five hundred thousand dollars (\$500,000), but less than two million dollars (\$2,000,000), the entity shall obtain an independent review report of its financial statements for the period. Consistent with Subchapter 21 (commencing with Section 58800) of Chapter 3 of Division 2 of Title 17 of the California Code of Regulations, this subdivision shall also apply to work activity program providers receiving less than five hundred thousand dollars (\$500,000).

(B) If the amount received from the regional center or regional centers during the entity's fiscal year is equal to or more than two million dollars (\$2,000,000), the entity shall obtain an independent audit of its financial statements for the period.

(2) This requirement does not apply to payments made using usual and customary rates, as defined by Title 17 of the California Code of Regulations, for services provided by regional centers.

(3) This requirement does not apply to state and local governmental agencies, the University of California, or the California State University.

(b) An entity subject to subdivision (a) shall provide copies of the independent audit or independent review report required by subdivision (a), and accompanying management letters, to the vendoring regional center within nine months of the end of the fiscal year for the entity.

(c) Regional centers that receive the audit or review reports required by subdivision (b) shall review and require resolution by the entity for issues identified in the report that have an impact on regional center services. Regional centers shall take appropriate action, up to termination of vendorization, for lack of adequate resolution of issues.

(d) Regional centers shall notify the department of all qualified opinion reports or reports noting significant issues that directly or indirectly impact regional center services within 30 days after receipt. Notification shall include a plan for resolution of issues.

(e) For purposes of this section, an independent review of financial statements shall be performed by an independent accounting firm and shall cover, at a minimum, all of the following:

(1) An inquiry as to the entity's accounting principles and practices and methods used in applying them.

(2) An inquiry as to the entity's procedures for recording, classifying, and summarizing transactions and accumulating information.

(3) Analytical procedures designed to identify relationships or items that appear to be unusual.

(4) An inquiry about budgetary actions taken at meetings of the board of directors or other comparable meetings.

(5) An inquiry about whether the financial statements have been properly prepared in conformity with generally accepted accounting principles and whether any events subsequent to the date of the financial statements would have a material effect on the statements under review.

(6) Working papers prepared in connection with a review of financial statements describing the items covered as well as any unusual items, including their disposition.

(f) For purposes of this section, an independent review report shall cover, at a minimum, all of the following:

(1) Certification that the review was performed in accordance with standards established by the American Institute of Certified Public Accountants.

(2) Certification that the statements are the representations of management.

(3) Certification that the review consisted of inquiries and analytical procedures that are lesser in scope than those of an audit.

(4) Certification that the accountant is not aware of any material modifications that need to be made to the statements for them to be in conformity with generally accepted accounting principles.

(g) The department shall not consider a request for adjustments to rates submitted in accordance with Title 17 of the California Code of Regulations by an entity receiving payments from one or more regional centers solely to fund either anticipated or unanticipated changes required to comply with this section.

(h) (1) An entity required to obtain an independent review report of its financial statement pursuant to subparagraph (A) of paragraph (1) of subdivision (a) may apply to the regional center for, and the regional center shall grant, a two-year exemption from the independent review report requirement if the regional center does not find issues in the prior year's independent review report that have an impact on regional center services.

(2) An entity required to obtain an independent audit of its financial statements pursuant to subparagraph (B) of paragraph (1) of subdivision (a) may apply to the regional center for an exemption from the independent audit requirement, subject to both of the following conditions:

(A) If the independent audit for the prior year resulted in an unmodified opinion or an unmodified opinion with additional communication, the regional center shall grant the entity a two-year exemption.

(B) If the independent audit for the prior year resulted in a qualified opinion and the issues are not material, the regional center shall grant the entity a two-year exemption. The entity and the regional center shall continue to address issues raised in this independent audit, regardless of whether the exemption is granted.

(3) A regional center shall annually report to the department any exemptions granted pursuant to this subdivision.

SEC. 5. Section 4689.8 of the Welfare and Institutions Code is amended to read:

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.

SEC. 6. Section 4690.5 of the Welfare and Institutions Code is amended to read:

4690.5. 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 rate for family member-provided respite services authorized by the department and in operation June 30, 2016, shall be increased by 5 percent. The increase shall be applied as a percentage, and the percentage shall be the same for all providers.

SEC. 7. Section 4691.6 of the Welfare and Institutions Code is amended to read:

4691.6. (a) Notwithstanding any other law or regulation, commencing July 1, 2006, the community-based day program, work activity program, and in-home respite service agency rate schedules authorized by the department and in operation June 30, 2006, shall be increased by 3 percent, subject to funds specifically appropriated for this increase in the Budget Act of 2006. The increase shall be applied as a percentage, and the percentage shall be the same for all providers. Any subsequent increase shall be governed by subdivisions (b), (c), (d), (e), (f), (g), (h), (i), (j), (k), and (l), and Section 4691.9.

(b) Notwithstanding any other law or regulation, the department shall not establish any permanent payment rate for a community-based day program or in-home respite service agency provider that has a temporary payment rate in effect on June 30, 2008, if the permanent payment rate would be greater than the temporary payment rate in effect on or after June 30, 2008, unless the regional center demonstrates to the department that the permanent payment rate is necessary to protect the consumers' health or safety.

(c) Notwithstanding any other law or regulation, neither the department nor any regional center shall approve any program design modification or revendorization for a community-based day program or in-home respite service agency provider that would result in an increase in the rate to be paid to the vendor from the rate that is in effect on or after June 30, 2008, unless the regional center demonstrates that the program design modification or revendorization is necessary to protect the consumers' health or safety and the department has granted prior written authorization.

(d) Notwithstanding any other law or regulation, the department shall not approve an anticipated rate adjustment for a community-based day program or in-home respite service agency provider that would result in an increase in the rate to be paid to the vendor from the rate that is in effect on or after June 30, 2008, unless the regional center demonstrates that the anticipated rate adjustment is necessary to protect the consumers' health or safety.

(e) Notwithstanding any other law or regulation, except as set forth in subdivisions (f) and (i), the department shall not approve any rate adjustment for a work activity program that would result in an increase in the rate to be paid to the vendor from the rate that is in effect on or after June 30, 2008, unless the regional center demonstrates that the rate adjustment is necessary to protect the consumers' health and safety and the department has granted prior written authorization.

(f) Notwithstanding any other law or regulation, commencing July 1, 2014, the department may approve rate adjustments for a work activity program that demonstrates to the department that the rate adjustment is necessary in order to pay employees who, prior to July 1, 2014, were being compensated at a wage that is less than the minimum wage established on and after July 1, 2014, by Section 1182.12 of the Labor Code, as amended by Chapter 351 of the Statutes of 2013. The rate adjustment pursuant to this subdivision shall be specific to payroll costs associated with any increase necessary to adjust employee pay only to the extent necessary to bring pay into compliance with the increased state minimum wage, and shall not constitute a general wage enhancement for employees paid above the increased minimum wage.

(g) Notwithstanding any other law or regulation, commencing July 1, 2014, community-based day program and in-home respite services agency providers with temporary payment rates set by the department may seek unanticipated rate adjustments from the department due to the impacts of the increased minimum wage as established by Section 1182.12 of the Labor Code, as amended by Chapter 351 of the Statutes of 2013. The rate adjustment shall be specific to payroll costs associated with any increase necessary to adjust employee pay only to the extent necessary to bring pay into compliance with the increased state minimum wage, and shall not constitute a general wage enhancement for employees paid above the increased minimum wage.

(h) Notwithstanding any other law or regulation, commencing January 1, 2015, the in-home respite service agency rate schedule authorized by the department and in operation December 31, 2014, shall be increased by 5.82 percent, subject to funds specifically appropriated for this increase for costs due to changes in federal regulations implementing the federal Fair Labor Standards Act of 1938 (29 U.S.C. Sec. 201 et seq.). The increase shall be applied as a percentage, and the percentage shall be the same for all applicable providers.

(i) Notwithstanding any other law or regulation, commencing July 1, 2015, the department may approve rate adjustments for a work activity program that demonstrates to the department that the rate adjustment is necessary to implement Article 1.5 (commencing with Section 245) of Chapter 1 of Part 1 of Division 2 of the Labor Code, as added by Chapter 317 of the Statutes of 2014. The rate adjustment may be applied only if a minimum of 24 hours or three days of paid sick leave per year was not a benefit provided to employees as of June 30, 2015, and shall be specific to payroll costs associated with any increase necessary to compensate an employee up to a maximum of 24 hours or three days of paid sick leave in each year of employment.

(j) Notwithstanding any other law or regulation, commencing July 1, 2015, community-based day program and in-home respite services agency providers with temporary payment rates set by the department may seek unanticipated rate adjustments from the department if the adjustment is necessary to implement Article 1.5 (commencing with Section 245) of Chapter 1 of Part 1 of Division 2 of the Labor Code, as added by Chapter 317 of the Statutes of 2014. The rate adjustment may be applied only if a minimum of 24 hours or three days of paid sick leave per year was not a benefit provided to employees as of June 30, 2015, and shall be specific to payroll costs associated with any increase necessary to compensate an employee up to a maximum of 24 hours or three days of paid sick leave in each year of employment.

(k) 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 in-home respite service agency rate schedule authorized by the department and in operation June 30, 2016, shall be increased by 5 percent. The increase shall be applied as a percentage, and the percentage shall be the same for all providers.

(l) 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 independent living service rate schedule authorized by the department and in operation June 30, 2016, shall be increased by 5 percent. The increase shall be applied as a percentage, and the percentage shall be the same for all providers.

SEC. 8. Section 4691.9 of the Welfare and Institutions Code is amended to read:

4691.9. (a) Notwithstanding any other law or regulation, commencing July 1, 2008:

(1) A regional center shall not pay an existing 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.

(2) A regional center shall not negotiate a rate with a new 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.

(b) Notwithstanding subdivision (a), commencing July 1, 2014, regional centers may negotiate a rate adjustment with providers regarding rates if the adjustment is necessary in order to pay employees no less than the minimum wage as established by Section 1182.12 of the Labor Code, as amended by Chapter 351 of the Statutes of 2013, and only for the purpose of adjusting payroll costs associated with the minimum wage increase. The rate adjustment shall be specific to the unit of service designation that is affected by the increased minimum wage, shall be specific to payroll costs associated with any increase necessary to adjust employee pay only to the extent necessary to bring pay into compliance with the increased state minimum wage, and shall not be used as a general wage enhancement for employees paid above the increased minimum wage. Regional centers shall maintain documentation on the process to determine, and the rationale for granting, any rate adjustment associated with the minimum wage increase.

(c) Notwithstanding any other law or regulation, commencing January 1, 2015, rates for personal assistance and supported living services in effect on December 31, 2014, shall be increased by 5.82 percent, subject to funds specifically appropriated for this increase for costs due to changes in federal regulations implementing the federal Fair Labor Standards Act of 1938 (29 U.S.C. Sec. 201 et seq.). The increase shall be applied as a percentage, and the percentage shall be the same for all applicable providers. As used in this subdivision, both of the following definitions shall apply:

(1) "Personal assistance" is limited only to those services provided by vendors classified by the regional center as personal assistance providers, pursuant to the miscellaneous services provisions contained in Title 17 of the California Code of Regulations.

(2) "Supported living services" are limited only to those services defined as supported living services in Title 17 of the California Code of Regulations.

(d) Notwithstanding subdivision (a), commencing July 1, 2015, regional centers may negotiate a rate adjustment with existing service providers for services for which rates are determined through negotiation between the regional center and the provider, if the adjustment is necessary to implement Article 1.5 (commencing with Section 245) of Chapter 1 of Part 1 of Division 2 of the Labor Code, as added by Chapter 317 of the Statutes of 2014. The rate adjustment may be applied only if a minimum of 24 hours or three days of paid sick leave per year was not a benefit provided to employees as of June 30, 2015, and shall be specific to payroll costs associated with any increase necessary to compensate an employee up to a maximum of 24 hours or three days of paid sick leave in each year of employment.

(e) 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, rates for transportation services in effect on June 30, 2016, shall be increased by 5 percent. The increase shall be applied as a percentage to existing rates, and the percentage shall be the same for all applicable providers.

(f) This section shall not apply to those services for which rates are determined by the State Department of Health Care Services, or the State Department of Developmental Services, or are usual and customary.

SEC. 9. Section 4691.10 is added to the Welfare and Institutions Code, to read:

4691.10. (a) (1) Notwithstanding any other law or regulation, and to the extent funds are appropriated in the annual Budget Act for this purpose, the department shall provide a rate increase for the purpose of enhancing wages and benefits for staff who spend a minimum of 75 percent of their time providing direct services to consumers. The department shall not allocate more than one hundred sixty-nine million five hundred thousand dollars (\$169,500,000) of the amount appropriated in the act that added this section for this purpose, plus any associated matching funds. The rate increase shall only apply to services for which rates are set by the department or through negotiations between the regional centers and service providers, and to the rates paid for supported employment services, as specified in subdivisions (a) and (b) of Section 4860, and vouchered community-based

services, as specified in paragraph (7) of subdivision (c) of Section 4688.21. This section shall not apply to those services for which rates are determined by other entities, including, but not limited to, the State Department of Health Care Services or the State Department of Social Services, or are usual and customary.

(2) For the purposes of this subdivision, "direct services" are services, supports, care, supervision, or assistance provided by staff directly to a consumer to address the consumer's needs, as identified in the individual program plan, and include staff's participation in training and other activities directly related to providing services to consumers, as well as program preparation functions as defined in Section 54302 of Title 17 of the California Code of Regulations. State employees participating in the Community State Staff Program are ineligible for the wage increase described in this section.

(b) The rate increase specified in subdivision (a) shall be implemented in the following manner:

(1) With regional center participation, the department shall conduct a survey of a random sample of service providers in each service category eligible for the rate increase. The survey shall request information regarding all of the following and shall be returned to the regional center and department by April 15, 2016:

(A) Number of employees who spend a minimum of 75 percent of their time providing direct services to consumers and their total salary, wage, and benefit costs.

(B) Administrative costs as specified in subdivision (b) of Section 4629.7, including the number of employees and total salary, wage, and benefit costs associated with those administrative costs.

(C) Any other staff and their total salary, wage, and benefit costs that are not included in either subparagraph (A) or (B).

(D) Any other costs to the provider, other than the costs described in subparagraphs (A) to (C), inclusive.

(E) Any additional information, as requested by the department, to assist in the determination of rate increases.

(2) The vendoring regional center shall certify that, to the best of its knowledge, the survey results accurately reflect the services provided by each surveyed service provider. The results from the survey shall be used by the department to determine the rate increase to be applied, by service category. The rate increase shall be the same for all eligible providers in each service category and is intended to provide comparable increases across service categories for staff providing direct services as described in subdivision (a).

(3) By July 1, 2016, utilizing the data derived from paragraph (1), the department shall do both of the following:

(A) For those service providers whose rates are set by the department, notify those providers and the associated regional centers of the amount by which the rates are to be increased.

(B) For those service providers whose rates are set by negotiation with the regional center, notify the regional center of the amount by which the rates are to be increased.

(4) With regional center participation, the department shall conduct a survey, in a format determined by the department, of all providers who received the rate increase described in subdivision (a). Providers shall submit the completed survey to the department by October 1, 2017. The survey shall request information on how the rate increase was used by providers and shall include, but is not limited to, the following:

(A) Number of employees and their salary, wage, and benefit costs, and increases provided as a result of this subdivision.

(B) Percentage of time each employee spends providing direct services.

(C) Administrative expenses, consistent with subdivision (b) of Section 4629.7.

(D) Any additional information as determined by the department.

(c) Providers granted a rate increase pursuant to this section shall maintain documentation, subject to audit by the department or regional center, that the rate increase was used solely to increase wages, salaries, and benefits of eligible staff members spending a minimum of 75 percent of their time providing direct services to consumers.

(d) The rate increases calculated by the department pursuant to this section shall be effective July 1, 2016, and implemented as described in subdivision (b).

(e) Any provider that fails to report the information required by paragraph (4) of subdivision (b) to the department by October 1, 2017, shall forfeit the increases described in subdivision (a).

(f) In its 2017–18 May Revision fiscal estimate, the department shall describe the implementation of the increases provided pursuant to this section.

SEC. 10. Section 4691.11 is added to the Welfare and Institutions Code, to read:

4691.11. Notwithstanding any other law or regulation, and to the extent funds are appropriated in the annual Budget Act for this purpose, the department shall allocate no more than nine million nine hundred thousand dollars (\$9,900,000) plus any associated matching funds for the purpose of administrative expenses for service providers. The department shall provide a rate increase for the purpose of administrative expenses that shall apply only to providers for which rates are set by the department or through negotiations between the regional centers and service providers, and to the rates paid for supported employment services, as specified in subdivisions (a) and (b) of Section 4860, and vouchered community-based services, as specified in paragraph (7) of subdivision (c) of Section 4688.21. This increase shall be determined using the information collected pursuant to subdivision (b) of Section 4691.10. This increase shall be consistent for providers within each service category and is intended to provide comparable increases for administrative expenses across service categories. This section shall not apply to those services for which rates are determined by other entities, including, but not limited to, the State Department of Health Care Services or the State Department of Social Services, or are usual and customary.

SEC. 11. Section 4860 of the Welfare and Institutions Code is amended to read:

4860. (a) (1) The hourly rate for supported employment services provided to consumers receiving individualized services is thirty-four dollars and twenty-four cents (\$34.24). The rate shall be adjusted by the department pursuant to subdivision (a) of Sections 4691.10 and 4691.11.

(2) Job coach hours spent in travel to consumer worksites may be reimbursable for individualized services only when the job coach travels from the vendor's headquarters to the consumer's worksite or from one consumer's worksite to another, and only when the travel is one way.

(b) The hourly rate for group services is thirty-four dollars and twenty-four cents (\$34.24), regardless of the number of consumers served in the group. Consumers in a group shall be scheduled to start and end work at the same time, unless an exception that takes into consideration the consumer's compensated work schedule is approved in advance by the regional center. The department, in consultation with stakeholders, shall adopt regulations to define the appropriate grounds for granting these exceptions. When the number of consumers in a supported employment placement group drops to fewer than the minimum required in subdivision (r) of Section 4851, the regional center may terminate funding for the group services in that group, unless, within 90 days, the program provider adds one or more regional centers, or Department of Rehabilitation-funded supported employment consumers to the group. The rate shall be adjusted by the department pursuant to subdivision (a) of Sections 4691.10 and 4691.11.

(c) Job coaching hours for group services shall be allocated on a prorated basis between a regional center and the Department of Rehabilitation when regional center and Department of Rehabilitation consumers are served in the same group.

(d) When Section 4855 applies, fees shall be authorized for the following:

(1) A three-hundred-sixty-dollar (\$360) fee shall be paid to the program provider upon intake of a consumer into a supported employment program. No fee shall be paid if that consumer completed a supported employment intake process with that same supported employment program within the previous 12 months.

(2) A seven-hundred-twenty-dollar (\$720) fee shall be paid upon placement of a consumer in an integrated job, except that no fee shall be paid if that consumer is placed with another consumer or consumers assigned to the same job coach during the same hours of employment.

(3) A seven-hundred-twenty-dollar (\$720) fee shall be paid after a 90-day retention of a consumer in a job, except that no fee shall be paid if that consumer has been placed with another consumer or consumers, assigned to the same job coach during the same hours of employment.

(e) Notwithstanding paragraph (4) of subdivision (a) of Section 4648, the regional center shall pay the supported employment program rates established by this section.

(f) The department, with regional center participation, shall conduct an annual survey of providers, in a format determined by the department, to collect the following information:

(1) The number of employment placements in the previous 12 months.

(2) Types of employment in which consumers are placed.

(3) The cost components of the rates in subdivisions (a) and (b), including, but not limited to, the amount used for hourly wages of job coaches, administration, and placement search costs.

(4) The number of hours each consumer works and the consumer's hourly wage.

(5) Any other information determined by the department.

(g) In its 2017–18 May Revision fiscal estimate, the department shall describe the results of the survey described in subdivision (f).

SEC. 12. Section 4870 is added to the Welfare and Institutions Code, to read:

4870. (a) To encourage competitive integrated employment opportunities statewide for individuals with developmental disabilities, the department shall establish guidelines and oversee a program, to the extent funds are appropriated in the annual Budget Act for this purpose, to increase paid internship opportunities for individuals with developmental disabilities that produce outcomes consistent with the individual program plan. The department shall consult with the State Council on Developmental Disabilities, regional centers, employers, supported employment provider organizations, and clients' rights advocates, to establish a program that shall be administered by community service providers and that meets all of the following criteria:

(1) Payments for internships shall not exceed ten thousand four hundred dollars (\$10,400) per year for each individual placed in an internship.

(2) Placements shall be made into competitive, integrated work environments.

(3) Placements shall be made into internships that develop skills that will facilitate paid employment opportunities in the future.

(4) Regional centers shall increase awareness of these internships to consumers outside of current employment programs through outreach to consumers once the program is implemented, as well as during the individual program plan process.

(b) The department shall require annual reporting by regional centers and vendors that ensures program accountability and achievement of program goals. This shall include, but is not limited to, all of the following:

(1) The number of interns placed who might not otherwise have achieved the placement absent this internship program.

(2) Types of employment in which interns are placed.

(3) Length of internships.

(4) Demographic information of interns.

(5) Amount of each intern placement payment.

(6) Employment-related supports provided by another agency or individual to the intern.

(7) Number of interns who subsequently entered paid employment, including salary and benefit information.

(8) Any additional information, as determined by the department.

(c) The department shall include in its annual May Revision fiscal estimate a description of the implementation of the program, including, but not limited to, a description of the stakeholder consultation, the data described in subdivision (b), aggregated by regional center and statewide, and any recommendations for program changes that may be necessary or desirable to maximize program effectiveness and accountability.

(d) Consistent with the individual program plan, the program shall increase sustained and appropriate competitive integrated employment placements by providers of supported employment services, as defined in subdivision (p) of Section 4851, as follows:

(1) A payment of one thousand dollars (\$1,000) to the supported employment services provider for initial placements made on or after July 1, 2016, in competitive integrated employment, as defined in subdivision (o) of Section 4851 and subdivision (d) of Section 4868.

(2) An additional payment of one thousand two hundred fifty dollars (\$1,250) to the supported employment services provider for an individual described in paragraph (1) who remains in competitive integrated employment for six consecutive months.

(3) An additional payment of one thousand five hundred dollars (\$1,500) to the supported employment services provider for an individual described in paragraphs (1) and (2) who remains in competitive integrated employment for 12 consecutive months.

(e) Regional centers shall annually report to the department the payments for placements pursuant to subdivision (d). The information shall be reported in a format determined by the department, and shall include the number of individuals placed in internships or other employment as described in this section each year.

SEC. 13. Section 14105.075 is added to the Welfare and Institutions Code, to read:

14105.075. (a) Notwithstanding any other law, for dates of service on or after August 1, 2016, payments to intermediate care facilities for the developmentally disabled that are licensed pursuant to subdivision (e), (g), or (h) of Section 1250 of the Health and Safety Code, and to facilities providing continuous skilled nursing care to developmentally disabled individuals pursuant to the pilot project established by Section 14132.20, as determined by the applicable methodology for setting reimbursement rates for those facilities, shall be the reimbursement rates that were applicable to those facilities in the 2008–09 rate year, increased by 3.7 percent. Payments to the facilities pursuant to this section shall also include the projected cost of complying with new state or federal mandates to the extent applicable to the reimbursement methodology associated with the type of facility.

(b) The director shall seek any necessary federal approvals to implement this section. This section shall not be implemented until the necessary federal approval is obtained, and only to the extent federal financial participation is available. If, and only to the extent, federal approval is obtained to implement this section, the payments resulting from the application of subdivision (a) shall be implemented retroactively to August 1, 2016, or any later effective date identified in the federal approval that is obtained, as applicable.

SEC. 14. Section 14105.195 is added to the Welfare and Institutions Code, to read:

14105.195. (a) Notwithstanding Sections 14105.191 and 14105.192, the department shall not seek to retroactively implement the reductions and limitations to the reimbursement for services provided by skilled nursing facilities that are distinct parts of general acute care hospitals set forth in Sections 14105.191 and 14105.192 for dates of service on or after June 1, 2011, and on or before September 30, 2013. For purposes of this section, “distinct part” has the same meaning as defined in Section 72041 of Title 22 of the California Code of Regulations.

(b) The department shall not seek to recoup any overpayments from skilled nursing facilities that are distinct parts of general acute care hospitals resulting from the reductions and limitations to the reimbursement for these facilities pursuant to Sections 14105.191 and 14105.192 for dates of service on or after June 1, 2011, and on or before September 30, 2013.

(c) Notwithstanding Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, the department may implement this section by means of provider bulletins or notices, policy letters, or other similar instructions, without taking regulatory action.

SEC. 15. (a) The sum of two hundred eighty-seven million dollars (\$287,000,000) is hereby appropriated from the General Fund to the State Department of Developmental Services to provide all of the following, effective July 1, 2016:

(1) Twenty-nine million seven hundred thousand dollars (\$29,700,000) for regional centers for staff, in an allocation to be determined by the department.

(2) One million four hundred thousand dollars (\$1,400,000) for regional centers for administrative costs, in an allocation to be determined by the department. This amount includes an amount to be allocated by the department for regional center clients’ rights advocates contracts pursuant to subdivision (b) of Section 4433.

(3) Nine million nine hundred thousand dollars (\$9,900,000) for administrative costs for service providers, in an allocation to be determined by the department.

(4) One hundred sixty-nine million five hundred thousand dollars (\$169,500,000) for a rate increase for staff providing direct services employed by a community-based provider organization, in a manner to be determined by the department.

(5) A 5-percent rate increase for supported and independent living services.

(6) Twenty million dollars (\$20,000,000) for competitive integrated employment incentive payments.

(7) A 5-percent rate increase for in-home and out-of-home respite services.

(8) A 5-percent increase for transportation services.

(9) A three-dollar-and-forty-two-cent (\$3.42) per hour rate increase for supported employment providers.

(10) Eleven million dollars (\$11,000,000) for bilingual staff at regional centers and implementing plans and recommendations to address disparities.

(b) These funds shall be available for encumbrance until June 30, 2017, and available for expenditure until June 30, 2019.

SEC. 16. The increases in rates and payments provided for in this act shall be effective July 1, 2016, and August 1, 2016, as expressly provided in this act, unless otherwise provided in this act.