August 16, 2010

TO: REGIONAL CENTER EXECUTIVE DIRECTORS

SUBJECT: STATUTORY CHANGES OF 2009 AND REGIONAL CENTER INTERNAL PROCESS

Over the last year, the regional center system has experienced significant change resulting from amendments to the Lanterman Developmental Disabilities Services Act (Lanterman Act). The number and complexity of these changes have presented challenges. Because most of the amendments were not enacted until July 28, 2009, case managers had only a short time to become knowledgeable about complex new statutory requirements. For example, a requirement related to the use of the least costly provider of service of comparable quality includes consideration of the circumstances under which a consumer is not required to use the least costly vendor. Additional amendments imposed service limitations and suspensions while providing for exemptions based upon specified criteria.

Regional centers should review and update their policies and procedures relative to the mandate in Welfare and Institutions Code section 4646.4 for an internal process to comply with law when purchasing services and supports for consumers. This review will ensure that all the recent statutory amendments to the Lanterman Act, including those in last year’s trailer bill, have been thoroughly integrated into this internal process. Regional centers should also notify their staff of the updates to their policies and procedures.

Thank you for your immediate attention to this matter.

Sincerely,

Original Signed By

RITA WALKER
Deputy Director
Community Operations Division

cc: Mark Hutchinson, DDS
ARCA

"Building Partnerships, Supporting Choices"
August 16, 2010

TO: REGIONAL CENTER EXECUTIVE DIRECTORS

SUBJECT: NEGOTIATED RATE SETTING AND DOCUMENTATION REQUIREMENTS

Various sections were added to the Lanterman Developmental Disabilities Services Act, effective July 1, 2008, specifying that:

"No regional center may 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 must conform with an existing regional center designation or, if none exists, a designation used to calculate the statewide median rate for the same service."

While the law sets a cap on negotiated rates, the rate setting methodology for applicable services is one of negotiation between the regional center and prospective provider. Pursuant to law and the regional center’s contract (Article IV, Section 3(a)) with the Department of Developmental Services (Department), effective immediately regional centers must maintain documentation on the process to determine, and the rationale for granting any negotiated rate (e.g. cost-statements), including consideration of the type of service and any education, experience and/or professional qualifications required to provide the service.

The Department has expanded its fiscal audit protocols to include a review of negotiated rates during the biennial fiscal audits of regional centers to ensure adequate documentation exists.

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Thank you for your immediate attention to this matter.

Sincerely,

Original Signed By

RITA WALKER
Deputy Director
Community Operations Division

cc: ARCA
Mark Hutchinson, DDS
Karyn Meyreles, DDS
August 16, 2010

TO: REGIONAL CENTER DIRECTORS

SUBJECT: PURCHASING CONSUMER SERVICES - SERVICE DATA REPORTING REQUIREMENTS AND DOCUMENTATION

Regional centers are required to submit specified consumer attendance and service data information with their Uniform Fiscal System (UFS) claims to the Department of Developmental Services (Department) on a monthly basis. The Department is asking regional centers to immediately conduct a quality assurance review to ensure the center is consistently submitting the required information, and to review and update their associated internal administrative policies and procedures, as necessary. These policies should also address procedures for reviewing and approving invoices received from providers of service before payment and submission of the claim to the Department.

The specific consumer attendance and service data information required to be submitted by vendors to the regional centers (and in turn, regional centers to the Department) is specified in Title 17, California Code of Regulations (CCR) section 54326 (enclosed). Also enclosed, is a copy of Title 17, CCR section 50604, subdivision (d)(3)(A-F) which specifies, by service type, the data that vendors are required to submit to the regional center.

The most efficient system for submitting the required information to the Department is through the vendor's use of eBilling or eAttendance. In the alternative, regional centers may use vendor data submitted on paper to update an attendance file for regional center processing of the vendor's invoice. Entry of this data at the regional center is imperative for both compliance with law and for federal billing purposes.

Again, the Department asks, pursuant to Welfare and Institutions Code section 4631, subdivision (b), and Title 17, CCR that regional centers review their compliance with these requirements and their administrative policies and procedures for staff, and update those administrative policies/procedures for purchasing consumer services, as necessary. Regional centers must also retain all required documentation for payment of invoices pursuant to applicable law, regulation and contract provision.

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The Department's biennial audits of regional centers will include reviewing the existence and adequacy of such policies. At a minimum, the auditors will be looking for verification that the regional center has policies/procedures addressing the purchasing of services and documentation and retention requirements.

For technical assistance regarding the use of eBilling or eAttendance, please contact the Regional Center Technology Support Section (RCTSS) Help Desk at (916) 654-1466 or email ast@dds.ca.gov. If you have any questions regarding this correspondence, please contact Brian Winfield, Manager, Regional Center Operations Section, at (916) 654-1569.

Sincerely,

Original Signed By

RITA WALKER  
Deputy Director  
Community Operations Division

Enclosures

cc: Mark Hutchinson, DDS  
ARCA
§54326. General Requirements for Vendors and Regional Centers.

(a) All vendors shall:

(1) Be prohibited from transferring vendorization of their service to another person or entity;

(2) Provide access to regional center and/or Department staff, on an announced or unannounced basis, for the purposes specified in the Welfare and Institutions Code, Section 4648.1;

(3) Maintain records of services provided to consumers in sufficient detail to verify delivery of the units of service billed:

(A) Such records shall be maintained for a minimum of five years from the date of final payment for the State fiscal year in which services were rendered or until audit findings have been resolved, whichever is longer;

(B) Records must include for each consumer the information specified in Section 50604 (d)(3)(A), (B), (C), (D), (E) or (F), as applicable.

(C) Data, as specified in Section 50604 (d)(3)(A), (B), (C), (D), (E) or (F), as applicable, for the billing period shall be submitted to the regional center with the billings/invoices.

(4) Make available any books and records pertaining to the vendored service, including those of the management organization, if applicable, for audit, inspection or authorized agency representatives. This shall also include only those portions of any personnel records that are necessary to ensure staff qualifications comply with the requirements contained in Section 56724, and Section 56770 or 56792 of these regulations, if applicable, in order to comply with the monitoring of program standards pursuant to the Welfare and Institutions Code, Section 4691(f);

(5) Utilize and be bound by Title 17, Sections 50700 through 50767, and the Welfare and Institutions Code, Section 50604(d)(3)(A), (B), (C), (D), (E) or (F), as applicable.

(6) Comply with the provisions contained in the Fair Labor Standards Act (29 U.S.C., Sections 201 through 219);

(7) Not discriminate in the provision of services to consumers on the basis of race, religion, age, disability, sex, or national origin of the consumer, or his/her parents, guardian, or conservator;

(8) Be vendored separately for each type of service provided, as specified in Sections 54342 through 54356 of these regulations unless the regional center waives separate vendorization pursuant to Section 54342 (a)(37) or 54342(a)(78)(A);

(9) Provide certification consistent with the Public Contract Code, Sections 10410 and 10411, that the vendor and the agents or employees of the vendor, in the performance of the contracts, are independent contractors and are not officers or employees of the State of California;

(10) Bill only for services which are actually provided to consumers and which have
been authorized by the referring regional center. When the vendor is receiving payment for a consumer from the Department of Rehabilitation and/or the Department of Health Services for a portion of the program day, and the vendor's rate of reimbursement is based on costs reported pursuant to Section 57422 (c)(2), the vendor shall only bill the prorate share of the daily rate.

(11) Not bill for consumer absences for nonresidential services. The Department shall authorize payment for absences which are the direct result of situations and/or occurrences for which a State of Emergency has been declared by the Governor. If payment for absences due to a State of Emergency is authorized by the Department, the vendor shall bill only for absences in excess of the average number of absences experienced by the vendor during the 12-month period prior to the month in which the disaster occurred;

(12) Agree to accept the rate established, revised or adjusted by the Department as payment in full for all authorized services provided to consumers and not bill the consumer nor the consumer's family, conservator, guardian or authorized consumer representative for a supplemental amount regardless of the cost of providing the authorized service. This shall not preclude the vendor from billing the consumer or consumer's family for services provided which were authorized by the consumer or family and which were not authorized by the regional center;

(13) Comply with all applicable staffing ratio requirements;

(14) Be prohibited from being vendored by more than one regional center for the same service at the same location; and

(15) Comply with conflict of interest requirements as determined by the criteria established by Title 17, Sections 54500 through 54525 and the Welfare and Institutions Code, Sections 4626 through 4628.

(16) Sign the Home and Community-Based Services Provider Agreement (6/99), if applicable pursuant to Section 54310 (a)(10)(l), (d) and (e). If the Home and Community-Based Services Provider Agreement (6/99) is required and has not been signed, the regional center shall:

(A) For new applicants requesting vendorization, deny vendorization pursuant to Section 54322 (c); or

(B) For existing vendors, notify in writing, the vendor and utilizing regional center(s), if any, that the signed Home and Community-Based Services Provider Agreement (6/99) is required and that payment of the vendor's rate will be suspended, the effective date of the suspension, and that payment shall remain suspended until the signed Home and Community-Based Services Provider Agreement (6/99), is received.

(1) The effective date for suspension of payment of the vendor's rate shall be 15 days from the date of the letter notifying the vendor that payment will be suspended.

(2) If the signed Home and Community-Based Services Provider Agreement (6/99), is submitted within the time specified, no further action will be taken.

(3) If the Home and Community-Based Services Provider Agreement (6/99), is submitted after the date when payment of the vendor's rate has been suspended, the vendoring regional center shall notify the vendor and utilizing regional center(s) that payment of the vendor's rate is reinstated as of the date payment was suspended.

(b) The vendor shall maintain a written description of its organizational structure and operations at the vendor's business office in accordance with the following:

(1) All descriptions shall include:
(A) An identification of the legal entity serving as the governing body or board of directors;
(B) The policies of operation that are established by the governing body or board of directors; and
(C) A diagram depicting the relationships among organizational units and titles of persons responsible for those units.

(2) In addition to the information specified in (b)(1) above, if the vendor:
(A) Operates more than one service, the description shall also include:
1. The names, addresses and vendor numbers of the other services; and
2. Whether any of the services share staff or facility space.
(B) Has a management organization, the description shall also include a diagram depicting the relationships among the management organization, the vendor, and any other services under the management organization.

(c) Regional centers shall submit the information specified in subsection (a)(3)(C) above to the Department on a monthly basis, and no later than 30 days after the end of the previous month.

(d) Regional centers shall not:
(1) Use purchase of service funds to purchase services for a minor child without first taking into account, when identifying the minor child's service needs, the family's responsibility for providing similar services to a minor child without disabilities. In such instances, the regional center must provide for exceptions, based on family need or hardship.
(2) Use purchase of service funds to purchase services for those executive/management services, legal services for the benefit of the regional center, service coordination, and administrative service and support functions that are funded through the regional center operations budget. Funding of specialized clinical and diagnostic assessment services and other services for the benefit of a consumer through purchase of service funds is permissible.
(3) Charge vendors or consumers for providing representative payee services.
(4) Except as specified in Section 54324 of these regulations:
(A) Refer any consumer to an applicant until the vendor application is approved; or
(B) Reimburse a vendor for services provided before vendorization.

(e) Compliance with the standards and requirements specified in these regulations does not exempt a vendor from compliance with existing statutes and regulations or with any other applicable standards or requirements promulgated by the controlling agencies for the service provided by the vendor.

Note

History
1. New section filed 6-26-90 as an emergency; operative 7-1-90 (Register 90, No. 36). A Certificate of Compliance must be transmitted to OAL by 10-29-90 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 6-26-90 order transmitted to OAL 9-28-90 and filed 10-29-90 (Register 90, No. 46).

3. Amendment of subsections (a)(9) and (d)(1)(A) and Note filed 11-5-91 as an emergency; operative 11-5-91 (Register 92, No. 21). A Certificate of Compliance must be transmitted to OAL 3-4-92 or emergency language will be repealed by operation of law on the following day.

4. Amendment of subsections (a)(9) and (d)(1)(A) and NOTE refiled 3-4-92 as an emergency; operative 3-4-92 (Register 92, No. 25). A Certificate of Compliance must be transmitted to OAL 7-2-92 or emergency language will be repealed by operation of law on the following day.

5. Certificate of Compliance as to 3-4-92 order including amendment of subsection (a)(9) transmitted to OAL 6-25-92 and filed 8-6-92 (Register 92, No. 33).

6. Amendment of section filed as an emergency 6-17-93; operative 6-17-93. Submitted to OAL for printing only pursuant to SB485 (Chapter 722, Statutes of 1992) Section 147(a) (Register 93, No. 26).

7. Amendment of subsections (a)(17), (a)(17)(B) and (a)(17)(B)2-3 filed 4-22-94; operative 4-22-94. Submitted to OAL for printing only (Register 94, No. 16).

8. Amendment of subsections (a)(12) and (17) filed 6-20-94 as an emergency; operative 6-20-94. Submitted to OAL for printing only pursuant to Chapter 722, Statutes of 1992, Section 147 (Register 94, No. 25).

9. Certificate of Compliance as to 6-17-93 order transmitted to OAL 6-20-94 and filed 8-2-94 (Register 94, No. 31).

10. Certificate of Compliance as to 6-20-94 order, including amendment of subsections (a)(9), (a)(12), (a)(17), (a)(17)(B) and (a)(17)(B)(2)-(3), transmitted to OAL 2-20-96 and filed 3-29-96 (Register 96, No. 13).

11. Change without regulatory effect amending section filed 1-17-97 pursuant to section 100, title 1, California Code of Regulations (Register 97, No. 3).

12. Repealer of subsection (a)(2), subsection renumbering, and amendment of Note filed 6-29-98 as an emergency; operative 6-29-98 (Register 98, No. 27). A Certificate of Compliance must be transmitted to OAL by 10-27-98 or emergency language will be repealed by operation of law on the following day.

13. Repealer of subsection (a)(2), subsection renumbering, and amendment of Note refiled 10-20-98 as an emergency; operative 10-27-98 (Register 98, No. 43). A Certificate of Compliance must be transmitted to OAL by 2-24-99 or emergency language will be repealed by operation of law on the following day.

14. Certificate of Compliance as to 10-20-98 order transmitted to OAL 12-31-98 and filed 2-17-99 (Register 99, No. 8).

15. Amendment of subsection (a)(3)(B), new subsections (a)(3)(C) and (c), subsection relettering and amendment of Note filed 10-9-2003 as an emergency; operative 10-9-2003 (Register 2003, No. 41). A Certificate of Compliance must be transmitted to OAL by 2-6-2004 or emergency language will be repealed by operation of law on the following day.

16. Amendment of subsection (a)(3)(B), new subsections (a)(3)(C) and (c), subsection relettering and amendment of Note refiled 2-3-2004 as an emergency; operative 2-3-2004 (Register 2004, No. 6). A Certificate of Compliance must be transmitted to OAL by 6-2-2004 or emergency language will
be repealed by operation of law on the following day.

17. Amendment of subsection (a)(3)(B), new subsections (a)(3)(C) and (c), subsection relettering and amendment of Note refiled 6-1-2004 as an emergency; operative 6-1-2004 (Register 2004, No. 23). A Certificate of Compliance must be transmitted to OAL by 9-29-2004 or emergency language will be repealed by operation of law on the following day.

18. Amendment of subsections (a)(3)(A), (a)(16), (a)(16)(B) and (a)(16)(B)(2)-(3) and amendment of Note filed 8-27-2004 as an emergency; operative 8-27-2004 (Register 2004, No. 35). A Certificate of Compliance must be transmitted to OAL by 12-27-2004 or emergency language will be repealed by operation of law on the following day.


20. Amendment of subsections (a)(3)(A), (a)(16), (a)(16)(B) and (a)(16)(B)(2)-(3) and amendment of Note refiled 12-22-2004 as an emergency; operative 12-22-2004 (Register 2004, No. 52). A Certificate of Compliance must be transmitted to OAL by 4-21-2005 or emergency language will be repealed by operation of law on the following day.


Source: California Department of Developmental Services
§50604. Service Provider Record Maintenance Requirements.

(a) Service providers shall maintain financial records which consistently use a single method of accounting. These financial records shall clearly reflect the nature and amounts of all costs and all income. All transactions for each month shall be entered into the financial records within 30 days after the end of that month.

(b) Subsection (a) shall apply to residential facilities for the purposes described in subsection (c), day programs, transportation companies, and other non-medical service providers which provide ongoing services to regional center consumers on a regular basis each month, except that the following service providers shall be exempt:

1. Residential facilities in which regional center consumers represent less than ten percent of the total consumers served by the facility during the last 12 month period.

2. Residential facilities in which regional center consumers represent more than ten percent of the total consumers served by the facility; however, no Departmental funds are received for the care and services provided to those consumers.

(c) Subsection (a) shall apply to residential facilities not exempted pursuant to subsections (b)(1) and (2) only for the following purposes:

1. To facilitate residential cost studies performed by the Department or authorized agency representative;

2. To ensure that staffing schedules in conformance with staffing level requirements, if any, are supported by payroll records and source documents;

3. To ensure that revenue and cost information are available to support administrative overhead allocations of parent organizations, if applicable; and

4. To ensure that revenue and cost information are available to support intercompany transactions with affiliate or commonly-owned organizations, if applicable.

(d) All service providers shall maintain complete service records to support all billing/invoicing for each regional center consumer in the program. Service records used to support service providers' billing/invoicing shall include, but not be limited to:

1. Information identifying each regional center consumer including the Unique Consumer Identifier and consumer name;

2. Documentation for each consumer reflecting the dates for program entrance and exit, if applicable, as authorized by a regional center;

3. A record of services provided to each consumer. The record shall include:

   A. For the purchase of medical equipment and/or supplies, and/or other merchandise, the date of the purchase, name of the entity/individual from whom the equipment, supplies, and/or merchandise is purchased, the item(s) purchased, and the cost of each item; or

   B. For transportation services, the dates of service, city or county where service was provided, and the number of miles driven or trips provided; or

   C. For community-based day programs, the dates of service, place where service was
provided, the start and end times of service provided to the consumer, and the daily or
hourly units of service provided. For community-based day program services provided
solely in natural environments, the city and county where service was provided shall be
reported as the place where service was provided. For community-based day programs
whose services are provided at the facility only or at both the facility and in the
community, the street address of the facility shall be reported as the place where
service was provided; or
(D) For all other services, the date, the start and end times of service provided to the
consumer, street address where service was provided, and daily or hourly units of
service provided.
(E) For goods and/or services purchased utilizing a voucher, in addition to the
information specified above, the name of the actual provider of the goods and/or
services. For services provided by an individual selected by the consumer or family
member, the date of birth, social security number (or a copy of any document accepted
by the federal government which establishes identity and employment eligibility which
has been compared to the original by the vendored family member and declared under
penalty of perjury to be a true and correct copy), address, and telephone number of the
individual who actually provided the service must also be maintained.
(F) For contracts reimbursed based on units of service other than as specified above,
units of service shall also be maintained pursuant to (A), (B), (C), or (D) above, as
applicable.
(e) All service providers' records shall be supported by source documentation.
(f) Nothing specified in this section shall be construed as superseding other record
maintenance requirements set forth in statute or regulation.

Note

Authority cited: Chapter 157, Statutes of 2003; and Sections 4631(a)(2) and
4648.2, Welfare and Institutions Code. Reference: Sections 4631 and 4648.1,
Welfare and Institutions Code.

History

1. New section filed 9-22-89; operative 10-22-89 (Register 89, No. 40).
2. Change without regulatory effect amending subsections (b)-(b)(2) and (d)-(d)
(2) filed 1-17-97 pursuant to section 100, title 1, California Code of Regulations
(Register 97, No. 3).
3. Amendment of subsections (d)(2)-(3), new subsections (d)(3)(A)-(E) and
amendment of Note filed 10-9-2003 as an emergency; operative 10-9-2003
(Register 2003, No. 41). A Certificate of Compliance must be transmitted to OAL
by 2-6-2004 or emergency language will be repealed by operation of law on the
following day.
4. Amendment of subsections (d)(2)-(3), new subsections (d)(3)(A)-(E) and
amendment of Note refiled 2-3-2004 as an emergency; operative 2-3-2004
(Register 2004, No. 6). A Certificate of Compliance must be transmitted to OAL
by 6-2-2004 or emergency language will be repealed by operation of law on the
following day.
5. Amendment of subsections (d)(2)-(3), new subsections (d)(3)(A)-(E) and
amendment of Note refiled 6-1-2004 as an emergency; operative 6-1-2004
(Register 2004, No. 23). A Certificate of Compliance must be transmitted to OAL by 9-29-2004 or emergency language will be repealed by operation of law on the following day.

6. Amendment of subsection (d)(3)(D) filed 8-27-2004 as an emergency; operative 8-27-2004 (Register 2004, No. 35). A Certificate of Compliance must be transmitted to OAL by 12-27-2004 or emergency language will be repealed by operation of law on the following day.


8. Refiling of 8-27-2004 order, including incorporation of relettering of subsection (d)(3)(D) to (d)(3)(E) in intervening action, 12-22-2004 as an emergency; operative 12-22-2004 (Register 2004, No. 52). A Certificate of Compliance must be transmitted to OAL by 4-21-2005 or emergency language will be repealed by operation of law on the following day.


Source: California Department of Developmental Services
August 16, 2010

TO: REGIONAL CENTER EXECUTIVE DIRECTORS

SUBJECT: CONFLICT OF INTEREST LAW

This letter is sent to remind regional centers of their responsibilities, and the responsibilities of their employees and board members, to comply with the conflict of interest standards set forth in the Lanterman Developmental Disabilities Services Act and the corresponding regulations, and the process for requesting a waiver of such conflicts. (See Welfare and Institutions Code §§ 4622, 4626-4628; Title 17, California Code of Regulations §§ 54500-54529.)

The law defines what constitutes a "conflict of interest" for a regional center employee or board member, their respective responsibilities for disclosure, and the processes for requesting a waiver of a conflict.

Regional centers should take immediate action to review their internal policies and procedures regarding conflict of interest and update them as needed to ensure compliance with the law. Additional action should be taken, as needed, to ensure employees and board members are aware of the conflict of interest laws and their responsibilities therein.

Thank you for your immediate attention to this matter.

Sincerely,

Original Signed By

RITA WALKER
Deputy Director
Community Operations Division

CC: Regional Center Board Chairpersons
ARCA

"Building Partnerships, Supporting Choices"