

**ASSOCIATION OF REGIONAL CENTER AGENCIES
SUMMARY OF SB 74 (FORMERLY AB 98)
FISCAL YEAR 2011-12
MARCH 29, 2011**

The following is a summary of the major provisions of SB 74.

Section 1 – Development of Best Practices (formerly POS Service Standards) – W&I Code Section 4620.3

1. Requires DDS, “with input from stakeholders”, to “develop best practices for the administrative management of regional centers and for regional centers to use when purchasing services for consumers and families” that may consider:

- a. Eligibility for the service; duration; frequency and efficacy of the service.
- b. Impact on community integration.
- b. Service provider qualifications and performance.
- c. Rates.
- d. Parental and consumer responsibilities.
- e. Self directed service options.

2. Changes to services for consumers must be made through the IPP process and consumers and families must be “notified of any exceptions or exemptions to the best practices and their appeal rights established in Section 4701.”

3. Best Practices includes “administrative management of regional centers”.

“In developing regional center administrative management best practices, the department shall consider the establishment of policies and procedures to ensure prudent fiscal and program management by regional centers; effective and efficient use of public resources; consistent practices to maximize the use of federal funds; detection and prevention of fraud, waste, and abuse; and proper contracting protocols.”

4. DDS must submit the Best Practices to the Legislature by May 15, 2011.

Section 2 – Accountability and Transparency (Board Composition) – W&I Code Section 4622.5

Requires, by August 15 each year, the RCs to provide DDS with written documentation that their boards meet the requirements of W&I Code 4622.

Section 3 – Accountability and Transparency (Contracts Over \$250,000) – W&I Code Section 4625.5

Requires RC Boards to review and approve any contract of \$250,000 or more. For the purposes of this section “contracts do not include vendor approval letters issued by regional centers pursuant to Section 54322 of Title 17 of the California Code of Regulations.”

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Section 4 – Conflict of Interest (Regional Centers) – W&I Code Section 4626

1. Requires DDS to develop a standard conflict-of-interest statement to be used by all RCs for their staff and board members. At a minimum, conflict of interest statements must be completed by “the executive director, every administrator, every program director, every service coordinator, and every employee who has decision-making or policymaking authority or authority to obligate the regional center’s resources.”
2. Requires RCs to send copies of the conflict-of-interest statements for the Executive Director and board members to DDS.
3. The following exclusion applies to consumers who are on the board:

“A person with a developmental disability who receives employment services through a regional center provider shall not be precluded from serving on the governing board of a regional center based solely upon receipt of these employment services.”

4. The following penalty has been added:

“A person who knowingly provides false information on a conflict-of-interest statement required by this section shall be subject to a civil penalty in an amount up to fifty thousand dollars (\$50,000), in addition to any civil remedies available to the department. An action for a civil penalty under this provision may be brought by the department or any public prosecutor in the name of the people of the State of California.”

Section 5 – Conflict of Interest (Regional Centers) – W&I Code Section 4626.5

1. Requires RC’s to submit a copy of their conflict-of-interest policies to DDS by July 1, 2011 and specifies what shall be included in those policies.
2. Requires RCs to post their conflict-of-interest policy on their website by August 1, 2011.

Section 6 – Conflict of Interest (Regional Centers) – W&I Code Section 4627

Requires DDS to develop, by May 1, 2011, conflict-of-interest regulations and a standard conflict-of-interest statement to be used by all RCs for their staff and board members.

Section 7 – Accountability and Transparency (Regional Centers) – W&I Code Section 4629.5

1. Requires RCs to provide upon request:
 - a. Information regarding requests for proposals and contract awards.

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- b. Service provider rates.
- c. Documentation related to establishment of negotiated rates.
- d. Audits and IRS Form 990.

2. Requires RCs to post on their website:

- a. Regional center annual independent audits.
- b. Biannual fiscal audits conducted by the department.
- c. Regional center annual reports pursuant to Section 4639.5.
- d. Contract awards, including the organization or entity awarded the contract, and the amount and purpose of the award.
- e. Purchase of service policies.
- f. The names, types of service, and contact information of all vendors, except consumers or family members of consumers.
- g. Board meeting agendas and approved minutes of open meetings of the board and all committees of the board.
- h. Bylaws of the regional center governing board.
- i. The annual performance contract and year-end performance contract entered into with the Department pursuant to this division.
- j. The biannual Home and Community-based Services Waiver program review conducted by the department and the State Department of Health Care Services.
- k. The board-approved transparency and public information policy.
- l. The board-approved conflict-of-interest policy.
- m. Reports required pursuant to Section 4639.5.

3. Requires DDS to post certain information on their website and a link to each RCs' website.

Section 8 – Administrative Costs Cap – W&I Code Section 4629.7

- 1. Requires that no more than 15% of the funds received by a provider *with a negotiated rate* from the RCs may be used for administrative costs.
- 2. Requires that no more 15% of the RC Operations Budget be expended on administrative costs.
- 3. Included in definition of direct services are “service coordination, assessment and diagnosis, monitoring of consumer services, quality assurance, and clinical services.”

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4. Specifies certain expenditures (for both RCs and providers) that are solely administrative and cannot be allocated to direct services.

- a. Salaries, wages, and employee benefits for managerial personnel whose primary purpose is the administrative management of the regional center, including, but not limited to, directors and chief executive officers.
- b. Salaries, wages, and benefits of other nondirect service employees, including, but not limited to, payroll management, personnel functions, accounting, budgeting, auditing, and facility management.
- c. Facility and occupancy costs directly associated with administrative functions.
- d. Maintenance and repair.
- e. Data processing and computer support services.
- f. Contract and procurement activities, except those performed by direct service employees.
- g. Training directly associated with administrative functions.
- h. Travel directly associated with administrative functions.
- i. Licenses directly associated with administrative functions.
- j. Taxes.
- k. Interest.
- l. Property insurance.
- m. Personal liability insurance directly associated with administrative functions.
- n. Depreciation.
- o. General expenses, including, but not limited to, communication costs and supplies directly associated with administrative functions.

Section 9 – Audits (Regional Centers) – W&I Code Section 4639

Requires RCs to switch audit firms for their annual audit every 5 years.

Section 10 – Continuation of 4.25% Payment Reduction (RC Staffing) – W&I Code Section 4640.6

This continues to June 30, 2012, as part of the continuation of the 4.25% payment reduction, the unlimited caseload ratio for consumers who are not on the HCBS waiver, not in Early Start, nor were placed from a DC.

Section 11 – Accountability and Transparency (Providers) – W&I Code Section 4648.12

Requires RCs to collect specific information regarding vendors to ensure eligibility for HCBS Waiver reimbursement. The new disclosure requirements will be for all “current and prospective vendors” and will include “information about entity ownership and control, contracting interests, and criminal convictions or civil proceedings involving fraud or abuse in any government program, or abuse or neglect of an elder, dependent adult, or child.” Individuals and entities with certain criminal convictions will be barred from being RC vendors:

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“An individual, partnership, group association, corporation, institution, or entity, and the officers, directors, owners, managing employees, or agents thereof, that has been convicted of any felony or misdemeanor involving fraud or abuse in any government program, or related to neglect or abuse of an elder or dependent adult or child, or in connection with the interference with, or obstruction of, any investigation into health care related fraud or abuse, or that has been found liable for fraud or abuse in any civil proceeding, or that has entered into a settlement in lieu of conviction for fraud or abuse in any government program, within the previous 10 years, shall be ineligible to be a regional center vendor. The regional center shall not deny vendorization to an otherwise qualified applicant whose felony or misdemeanor charges did not result in a conviction solely on the basis of the prior charges.”

Section 12 – Accountability and Transparency (DDS) – W&I Code Section 4648.14

Requires the Department of Social Services and Department of Public Health to notify DDS of:

- a. The issuance of a citation requiring corrective action for a health and safety violation.
- b. The suspension or revocation of a license.
- c. The issuance of a temporary restraining order.
- d. The appointment of a temporary receiver pursuant to Section 1327 of the Health and Safety Code.

Section 13 – Audits (Providers) – W&I Code Section 4652.5

Requires **entities** “receiving payments from one or more regional centers shall contract with an independent accounting firm for an audit or review of its financial statements”, if those payments:

- a. Exceed \$250,000, but is less than \$500,000 obtain an independent audit or an independent review and submit it to the vendoring RC.
 - b. Exceed \$500,000, obtain an independent audit and submit it to the vendoring RC.
3. Requires RCs to review these audits and follow up on issues identified in the reports.
 4. Requires RCs to notify DDS of any provider audits with a qualified opinion.

Section 14 – Third Party Liability – W&I Code Sections 4659.10 through 4659.24

This allows DDS and RCs to:

- a. Seek reimbursement for cost of services to consumers where the consumer or other interested party receives an award or settlement from litigation for injury to or death of a consumer.

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- b. Get information from health insurance plans about claims and payments made on behalf of a consumer.
- c. Get information from health insurance plans to ascertain which consumers are covered by the health plans.

Section 15 – Continuation of 4.25% Payment Reduction (Provider Workload Relief) – W&I Code Section 4791

This continues to June 30, 2012, as part of the continuation of the 4.25% payment reduction, the provisions for provider workload relief originally enacted with the implementation of the 3%/4.25% payment reduction.

Section 16 – Continuation of 4.25% Payment Reduction – Amends SBX3-6

This continues to June 30, 2012, the 4.25% payment reduction.