

2009 CHANGES TO THE LANTERMAN ACT & CUTS IN SERVICES

EARLY START SERVICES

- **Eligibility for Early Start services will be restricted.**
- Infants and toddlers who are at “high risk” of having a substantial developmental disability (prematurity, other biomedical and/or social factors) will no longer be eligible for Early Start services. They will be eligible for a new state-funded prevention program which is limited to offering case management, information and referral to other generic agencies.

Appeal Strategies: No basis for appeal unless child can qualify in another category, e.g., has an “established risk condition”.

- In order to qualify as a child with a developmental delay, the delay must be at least 33% in one developmental area for children under 24 months and 50% in one developmental area or 33% in two areas for children over 24 months.

Appeal Strategies: Ensure thorough and accurate assessments to document nature of delays.

- Regional centers will no longer fund services that are not required by the federal government. These include day care, respite, other family support services and most medical services, except for durable medical equipment.

Appeal Strategies: None under Early Start Program. Can access these services if child is qualified as eligible for services under state Lanterman Act.

- Regional centers will give priority to funding integrated neighborhood preschools rather than specialized infant development programs established for children with special needs.

Appeal Strategies: Must be able to document that child’s needs can only be met by utilizing an infant development program.

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NON-MEDICAL SERVICES AND THERAPIES

- **Access to In-Home Behavioral Intervention services will be limited.**
- Parents will be required to complete group instruction prior to regional center agreeing to fund in-home behavioral services. This requirement applies to children served under early Start as well as under the Lanterman Act

Appeal Strategies: Document why group instruction will not adequately address the problem. This may entail demonstrating the critical nature of the child's maladaptive behaviors, the urgent nature based on potentially dangerous consequences (self-injury, running away, danger to younger sibling, etc.). May need to document that delay in convening the class is unacceptable, lack of classes in parent's primary language; inability of parent to benefit from classroom instruction.

- **Camp services, social recreation services, educational services and non-medical therapies (art, music, equestrian, aquatic, gymnastics) are being "suspended"** –meaning regional centers will no longer fund these services but the state "may" reinstate funding at some time in the future.

Appeal Strategies: An exception may be made when "the service is a primary or critical means for ameliorating (improving) the physical, cognitive, or psychosocial effects of the consumer's developmental disability" or the service is essential to maintaining the person in his home and no other alternative service is available. Additionally, in some cases may be possible to redefine the service as medical in nature -- for example, aquatic therapy in some cases serves as a physical therapy modality for people with cerebral palsy. Recommend getting physician documentation.

- **There will be a limit on Respite Services.** Out of home respite will be limited to no more than 21 days per year. In-home respite will be limited to no more than 90 hours per quarter (30 hours per month).

Appeal Strategies: An exception may be made if one of the following applies: a) "the intensity of the consumer's care and supervision needs are such that additional respite hours are needed to maintain the consumer in the family home" or b) "there is an extraordinary event that impacts the family member's ability" to care for the consumer

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GENERAL STANDARDS

- **The least costly provider** who can deliver the needed service shall be used unless it is a more restrictive or less integrated service than currently utilized.

Appeal Strategies: Must be able to document that the proposed provider cannot accomplish the goals identified in the consumer's IPP or properly address the consumer's needs. May need to demonstrate that the proposed provider does not have appropriate training, language capacity, peer group, physical site needs or other specifics that apply to the particular consumer. (Note: definition of "least costly" includes ability to access federal financial participation and cost of transportation)

- **Regional centers are prohibited from purchasing experimental or unproven therapies or devices**

Appeal Strategies: Must demonstrate that the requested service is not experimental, that there is a body of peer-reviewed evidence of its effectiveness.

- **Regional centers may not pay for medical or dental care when the consumer has other alternative coverage** (Medi-Cal, Medicare, CHAMPUS, private insurance, CCS, IHSS) but chooses not to pursue that coverage. This proviso applies to children served under Early Start as well.

Appeal Strategies: Regional centers can require the consumer to appeal a denial from one of these alternative insurers unless they determine that the appeal has no merit. Accordingly, one should document how the requested service/treatment is clearly outside the accepted coverage available from the insurer. (Note: the new language does not require consumers to exhaust every existing generic resource if they clearly do not qualify for the requested service.)

2009 CHANGES TO OTHER SERVICES & SUPPORTS

- **Access to IHSS hours will be limited.** Some people who were previously receiving IHSS hours for domestic services may lose those hours. Some people whose disability is mild to moderate may lose all IHSS hours. Anyone who is receiving 120 hours or more of IHSS per month or who is receiving protective supervision will be exempt from any cuts.
- **SSI/SSP monthly checks are being reduced** to the federal minimum, \$830 for a single person and \$1,407 for couples.
- **Adults who receive Medi-Cal are losing coverage for “optional benefits.”**
These include:
 - All dental care
 - All optometry – eye exams, eyeglasses, contact lenses
 - Mental Health Services/Psychology – visits to therapist
 - Audiology – hearing aids
 - Podiatry – foot care
 - Incontinence supplies
 - Acupuncture
 - Speech therapy
 - Chiropractic services

Appeal Strategies: As the payer of last resort, regional centers are required to purchase the above services when they are not otherwise available. The Department of Developmental Services (DDS) secured additional funds from the Legislature to cover these services -- \$7.65 million for dental care; \$4.3 million for the other Medi-Cal benefits; \$20.2 million to replace lost IHSS hours; and \$20.4 million to SSI/SSP recipients who live independently.

SOME POSITIVE CHANGES

- DDS/regional centers will be introducing an **Independent Choice Budget** model to offer consumers the option of self-directing their own services within a reduced, finite budget amount. Stay tuned for information about this plan which will probably roll out in 2010.
- DDS/regional centers will be introducing a “**Custom Endeavors Option**” which is intended to promote employment for people who would otherwise be steered to day programs.

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