AGENDA

ASSEMBLY BUDGET SUBCOMMITTEE NO. 1 ON HEALTH AND HUMAN SERVICES

ASSEMBLYMEMBER TONY THURMOND, CHAIR

WEDNESDAY, MARCH 4, 2015
1:30 P.M. - STATE CAPITOL ROOM 4202

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LIST OF PANELISTS IN ORDER OF PRESENTATION

ISSUE 1: DEPARTMENT OVERVIEW

- Santi Rogers, Director, Department of Developmental Services

ISSUE 2: STATE DEVELOPMENTAL CENTERS

- John Doyle, Administrative Deputy Director, and Dwayne LaFon, Interim Deputy Director, Developmental Centers Division, California Department of Developmental Services
- Dion Aroner, Partner, AJP Partners
- Tony Anderson, Executive Director, The Arc and Chair, Lanterman Coalition
- Rashi Kesarwani, Fiscal and Policy Analyst, Legislative Analyst's Office
- Lawana Welch, Finance Budget Analyst, Department of Finance
- Public Comment on all DC Issues

ISSUE 3: RATES AND WAGES FOR REGIONAL CENTERS

- Jim Knight and Brian Winfield, Assistant Deputy Director, Community Services Division, California Department of Developmental Services
- Kristopher Kent, Assistant Secretary, California Health and Human Services Agency
- Eileen Richey, Executive Director, Association of Regional Center Agencies
- Marty Omoto, Founder, California Disability Community Action Network
- Rashi Kesarwani, Fiscal and Policy Analyst, Legislative Analyst's Office
- Lawana Welch, Finance Budget Analyst, Department of Finance
- Public Comment on Rates and Wages Issues

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- Jim Knight and Brian Winfield, Assistant Deputy Director, Community Services Division, California Department of Developmental Services
- Evelyn Abouhassan, Senior Legislative Advocate, Disability Rights California
- Rick Rollens, Legislative Advisor to Association of Regional Center Agencies and Parent Advocate
- Rashi Kesarwani, Fiscal and Policy Analyst, Legislative Analyst's Office
- Lawana Welch, Finance Budget Analyst, Department of Finance
- Public Comment on Community Services Issues

ISSUE 1: DEPARTMENT OF REHABILITATION

- Joe Xavier, Director, California Department of Rehabilitation
- Rashi Kesarwani, Fiscal and Policy Analyst, Legislative Analyst's Office
- John Silva, Finance Budget Analyst, Department of Finance
- Public Comment

ITEMS TO BE HEARD

4300 DEPARTMENT OF DEVELOPMENTAL SERVICES

ISSUE 1: PROGRAM AND BUDGET REVIEW

PANEL

- **Santi Rogers**, Director, Department of Developmental Services

DEPARTMENT OVERVIEW

The Governor's Budget includes $5.7 billion total funds ($3.3 billion General Fund) for the Department in 2015-16; a net increase of $246 million above the updated 2014-15 budget, a 4.5 percent total fund increase (6.5 percent General Fund increase).

The Department of Developmental Services (DDS) is responsible under the Lanterman Developmental Disabilities Services Act of 1969 (Lanterman Act) for ensuring that approximately 280,000 individuals with developmental disabilities receive the services and support they require to lead more independent and productive lives and to make choices and decisions about their lives. The Lanterman Act defines a developmental disability as a "substantial disability" that starts before age 18 and is expected to continue indefinitely. The developmental disabilities for which an individual may be eligible to receive services under the Lanterman Act include: cerebral palsy, epilepsy, autism, intellectual disabilities, and other conditions closely related to intellectual disabilities that require similar treatment (such as a traumatic brain injury).

The Department ensures coordination of services to persons with developmental disabilities; ensures that such services are planned, provided, and sufficiently complete to meet the needs and choices of these individuals at each stage of their lives; and, to the extent possible, accomplishes these goals in the individual's home community. The Department's goals are to:

- Expand the availability, accessibility, and types of services and supports to meet current and future needs of individuals and their families.

- Develop systems to ensure that quality services and supports are provided.

- Facilitate the dissemination of information to improve services and supports and the lives of people with developmental disabilities.

- Ensure the Department, state Developmental Centers (DCs), regional centers, and service providers comply with all applicable federal and state laws, regulations and contracts, including accounting for their funding in an appropriate manner.

Overview of Department's Major Areas. California provides services and support to individuals with developmental disabilities in two ways. The vast majorities of people live in their families' homes or other community settings and receive state-funded services that are coordinated by one of 21 non-profit corporations known as regional centers (RCs). More than 99 percent of DDS consumers receive services in this way under the Community Services Program. These consumers live with their parents or other relatives, in their own houses or apartments, or in residential facilities or group homes designed to meet their needs. A smaller number of individuals, or less than 1 percent of the DDS caseload, live in three state-operated DCs and one state-operated community facility. The popuation for the current and budget years is expected to change as follows:

- The number of consumers with developmental disabilities in the community served by regional centers is estimated to increase from 278,593 in the current year to 288,317 in 2015-16.

- The number of consumers living in state-operated residential facilities is estimated to decrease from 1,084 in the current year to 951 by the end of 2015-16.

Developmental Centers Program. DDS operates three DCs: Fairview (Orange County), Porterville (Tulare County), and Sonoma (Sonoma County). Among other services, Porterville also provides secure treatment services. A fourth DC, Lanterman, transitioned its last resident into community living on December 23, 2014, and the facility has moved into warm shutdown. The warm shutdown process is used in order to prevent deterioration, provide for security, maintain health and safety conditions, and adheres to all fiscal obligations for one year post-closure. This process is necessary in order to maintain the facility until the land is sold. In addition, DDS leases one small facility for persons who require specialized behavioral interventions: Canyon Springs, a 63-bed facility in Cathedral City. Services at all facilities involve the provision of active treatment through residential and day programs on a 24-hour basis, including appropriate medical and dental care, health maintenance activities, and assistance with activities of daily living, training, education, and employment.

The primary objectives of the DCs include providing care, treatment, and habilitation services in the most efficient, effective, and least restrictive manner to all individuals referred to the DCs by the regional centers, and/or the judicial system; and providing services to individuals that ensure increased independence, maintenance or improvement of health and welfare, and enhanced personal competence and effectiveness in all areas of daily living.

The Developmental Centers Division provides central administrative and clinical management services to the three DCs and the leased small community facility to ensure the quality of services, compliance with state licensing and federal certification requirements, protection of consumers and staff, and maintenance of facility structures and grounds. Areas of responsibility include the development of policy and procedures for all aspects of the DCs operations, law enforcement and protective services, facility population management, program and fiscal oversight, and facilities planning and support.

Community Services Programs. Through the network of RCs, the Department supports the development and maintenance of services for eligible persons with developmental disabilities who reside in the community. The regional centers directly provide or coordinate the following services and supports: (1) information and referral, (2) assessment and diagnosis, (3) counseling, (4) lifelong individualized planning and service coordination, formalized into an Individual Program Plan (IPP), (5) purchase of necessary services included in the IPP, (6) assistance in finding and using community and other resources, (7) advocacy for the protection of legal, civil, and service rights, (8) early intervention services for infants and their families, (9) family support, (10) planning, placement, and monitoring for 24-hour out-of-home care, (11) training and educational opportunities for individuals and families, (12) community education about developmental disabilities, and (13) habilitation services.

The DDS provides RCs with an operations budget in order to conduct these activities. The DDS also provides RCs with a budget to purchase services from vendors for an estimated 278,593 consumers in 2014-15. These services can include day programs, transportation, residential care provided by community care facilities, and support services that assist individuals to live in the community. The RCs purchase more than 100 different services on behalf of consumers. As the payer of last resort, RCs generally only pay for services if an individual does not have private insurance or if the RC cannot refer an individual to so–called “generic” services such as other state-administered health and human services programs for low–income persons or services that are generally provided at the local level by counties, cities, school districts, or other agencies. The majority of consumers receiving services through the Community Services Program are enrolled in Medi–Cal, California’s Medicaid program.

DDS monitors regional centers to ensure they operate in accordance with statute, regulations, and their contract with the Department.

Budget Context. During a period of recent budget deficits, the Legislature enacted numerous DDS budget reductions and cost savings measures to yield General Fund savings, such as rate changes and provider payment reductions for RC vendors, service changes, and reliance on increased federal funding. The provider payment reductions experienced by RC vendors, including the 3 percent reduction in 2009-10, the 4.25 percent reduction in both 2010-11 and 2011-12, and the 1.25 percent reduction in 2012-13, have expired with no new provider payment reductions proposed for 2015-16. However, rates paid to providers established by statute or by the department have generally been frozen since 2003-04.

Rates negotiated by the RCs for new providers were limited beginning in 2008 to no higher than the median rate for that service. Certain RC programs and services have experienced further ongoing reductions. In 2008-09, the Supported Employment Program provider rates were cut by 10 percent (after having been increased by 24 percent in 2006-07) and remain at that level with no restorations proposed for 2015–16.

In 2009-10, a number of ongoing reductions were made to the Early Start program, which provides services to infants and toddlers under the age of three who have a developmental disability (and prior to 2009-10, to children who were at–risk for a developmental disability). Also in 2009-10, the DDS suspended the availability of certain services, including social/recreation activities, camping services and associated travel, educational services for school-aged children, and certain nonmedical therapies. In 2014-15, $8 million was appropriated for the current year to restore eligibility to infants and toddlers to the level that was in place prior to the 2009-10 budget. This action also included $16 million General Fund (GF) for 2015-16 and ongoing years.

The reductions sustained in DDS over the past several years are listed below, as provided by the Department:

- 2009-10 - $517.0 million ($460.1 GF)
- 2010-11 - $251.2 million ($227.1 GF)
- 2011-12 - $339.8 million ($255.3 GF)
- 2012-13 - $240.4 million ($257.0 GF)

The 2012-13 budget imposed a moratorium on admissions to DCs except for individuals involved in the criminal justice system, and consumers in an acute crisis needing short-term stabilization. The high costs to maintain and staff these facilities, coupled with an emphasis on transitioning individuals back into their community, have led to the closure and/or restructuring of many developmental centers. The moratorium on DC admissions as well as the need for the availability of services in the community have led to a shift in spending from the developmental centers to the community services programs. The 2015-16 budget reflects this change, as the budget for Developmental Centers has decreased and the Community Services budget has increased.

	Revised 2014-15	2015-16	Difference	Percent Change
Total Funds				
Community Services	$4,848,508	$5,141,657	$293,149	6.0%
Developmental Centers	562,894	515,213	-47,681	-8.5
Headquarters Support	42,484	42,579	95	0.2
Total of All Programs	$5,453,886	$5,699,449	$245,563	4.5%
General Fund				
Community Services	$2,761,388	$2,991,911	$230,523	8.3%
Developmental Centers	309,648	279,839	-29,809	-9.6
Headquarters Support	27,043	27,070	27	0.1
Total of All Programs	$3,098,079	$3,298,820	$200,741	6.5%

(Dollars in thousands)

Fiscal Overview. The budget proposes $5.7 billion (all funds) for DDS in 2015-16, which is a 4.5 percent net increase above the updated 2014-15 budget. General Fund expenditures for 2015-16 are proposed at $3.3 billion, a net increase of 6.5 percent, over estimated revised expenditures in 2014-15. This net increase in total expenditures generally reflects increases in the budget for the Community Services Program, partially offset by decreasing costs in the DC's Program budget.

Fund Source	2014-15 Actual	2015-16 Proposed	Difference	Percent Change
General Fund	$3,098,079	$3,298,820	$200,741	6.5%
Federal Trust Fund	70,116	54,699	-15,417	-22
Lottery Education Fund	367	367	0	0
Developmental Disabilities Program Development Fund	4,396	4,452	56	1.3
Developmental Disabilities Services Account	150	150	0	0
Reimbursements	2,279,598	2,339,750	60,152	2.6
Mental Health Services Funds	1,180	1,211	31	2.6
Total Expenditures	$5,453,886	$5,699,449	$245,563	4.5%

(Dollars in thousands)

GOVERNOR'S BUDGET PROPOSAL FOR 2015-16

- **Headquarters.** The Governor's Budget proposes Headquarters operations funding for 2015-16 of $42.6 million Total Funds ($27.1 million GF). This is an increase of $0.1 million Other Funds from the 2014-15 Governor's Budget, reflecting the full year Other Staff Benefits contribution increase.

Staff Recommendation: Hold open.

ISSUE 2: STATE DEVELOPMENTAL CENTERS (DCs)

PANEL

- John Doyle, Administrative Deputy Director, and Dwayne LaFon, Interim Deputy Director, Developmental Centers Division, California Department of Developmental Services
- Dion Aroner, Partner, AJP Partners
- Tony Anderson, Executive Director, The Arc and Chair, Lanterman Coalition
- Rashi Kesarwani, Fiscal and Policy Analyst, Legislative Analyst's Office
- Lawana Welch, Finance Budget Analyst, Department of Finance
- Public Comment on all DC Issues

DEVELOPMENTAL CENTERS OVERVIEW

The budget provides services and support for 1,010 residents (average in-center population) in DCs, a decrease of 102 residents from the 2014-15 enacted budget. Funding decreased to $515.2 million ($279.8 million GF), a decrease of $13.0 million, with a net increase in GF of $3.8 million from enacted budget. Authorized positions decreased to 4,270.2, a decrease of 190.9 positions below enacted budget. By the end of the budget year, DDS projects 951 individuals residing in the state-operated facilities. DC costs are also adjusted to reflect closure of the Lanterman DC facility on December 31, 2014, and assumes the property will be transferred to the California State University System on July 1, 2015.

The DDS operates three 24–hour care facilities -- Fairview DC in Orange County, Porterville DC in Tulare County, and Sonoma DC in Sonoma County -- and one smaller leased community facility (Canyon Springs in Riverside County), which together provide 24–hour care and supervision to approximately 1,010 residents in 2015–16. Each DC is licensed by the Department of Public Health (DPH), and certified by DPH on behalf of the Centers for Medicare and Medicaid Services (CMS), as Skilled Nursing Facilities, Intermediate Care Facilities for Individuals with Intellectual Disabilities (ICF/IID), and General Acute Care hospitals.

The DCs are licensed and certified to provide a broad array of services based on each resident's individual program plan, such as nursing services, assistance with activities of daily living, specialized rehabilitative services, individualized dietary services, and vocational or other day programs outside of the residence. The DCs must be certified in order to receive federal Medicaid funding. The vast majority of DC residents are enrolled in Medi-Cal. Generally, for Medi–Cal enrollees living in DCs, the state bears roughly half the costs of their care and the federal government bears the remainder. Over the past 15 years, the DCs have faced a history of problems identified by oversight entities, such as DPH and the United States Department of Justice, including inadequate care, insufficient staffing, and inadequate reporting and investigation of instances of abuse and neglect.

Budget-related legislation enacted in 2012-13 imposed a moratorium on new admissions to DCs, with exceptions for individuals involved in the criminal justice system and consumers in an acute crisis needing short–term stabilization.

GOVERNOR'S BUDGET PROPOSALS FOR 2015-16

- **Employee Compensation and Staff Benefit Contribution Changes.** The Governor's budget proposes a $13.2 million increase ($7.9 million GF increase) to fund employee compensation augmentations approved through the collective bargaining process, as well as increases in retirement and other staff benefit employer contribution rates.

- **DC Population Decrease Staffing Adjustments (excluding Lanterman DC).** The Governor's budget proposes a decrease of $12.0 million ($6.6 million GF) and reduction of 149.4 positions due to the anticipated decrease of 134 residents transitioning from the DCs into the community.

- **Expansion of Secure Treatment Program (STP) at Porterville DC.** The Governor's budget proposes an increase of $18.0 million GF and 184.5 positions to support the addition of 32 STP beds at Porterville DC.

- **Program Improvement Plans (PIPs).** The Governor's budget proposes an increase of $12.2 million ($6.5 million GF) and 179.5 positions for full year costs to implement two PIPs at the Fairview and Porterville DCs that were entered into with the CDPH on January 15, 2014. This proposal also includes $11.9 million ($7.5 million GF) and 119.7 Full Time Equivalent (FTE) positions in current budget year to cover eight months of implementation costs for the PIPs at the Fairview and Porterville DCs.

- **Sonoma DC Backfill.** The Governor's budget proposes an increase of $8.8 million GF increase for the current budget year (2014-15) in order to replace the loss of $8.8 million in federal funding as a reimbursement for the four decertified Intermediate Care Facilities (ICF) units.

- **Sonoma Creek Pump Station.** The Governor's budget proposes an increase of $1.6 million GF for the replacement of the Sonoma Creek Pump Station Intake System located at the Sonoma DC. Included in this funding is the Phase I funding to prepare Preliminary Plans and Working Drawings.

- **Porterville Fire Alarm System.** The Five-Year Infrastructure Plan budget proposes $802,000 GF to prepare preliminary plans and working drawings for the design and permits in order to install a new fire alarm system in the 13 consumer-utilized buildings at the Porterville DC.

- **Lanterman DC Post Closure Adjustments.** The Governor's budget proposes a decrease of $46.3 million ($23.9 million GF) associated with the closure of Lanterman DC. The following budget adjustments are needed prior to the transfer to CSU:
  - $64.8 million decrease ($33.9 million GF decrease) and elimination of 418.5 positions from the Developmental Center budget, reflecting full year budgeted levels for Personal Services and Operating Expenses and Equipment.
  - $0.3 million decrease ($0.2 million GF decrease) in funding level for the Foster Grandparent/Senior Companion Program at the Lanterman DC moving to the Community Services Program.
  - $17.3 million increase ($9.1 million GF increase) to pursue the settlement of open Workers' Compensation claims assigned to the Lanterman DC. For one year after closure of the facility, the State may claim matching federal funds for these expenditures.
  - $0.6 million increase ($0.4 million GF increase) and 6.0 positions to extend the Regional Resource Development Projects to ensure that individuals who moved from Lanterman DC to community settings, successfully maintain their placements and living arrangements.
  - $0.3 million increase ($0.2 million GF increase) and 2.0 positions for the Community State Staff program administration.
  - $0.6 million increase ($0.5 million GF increase) and 5.0 positions stationed at Headquarters that supported the closure of Lanterman DC, are now needed to continue working on post-closure workload and on future statewide downsizing in the overall DC system

REVIEW OF DC ISSUES

Lanterman Developmental Center. The budget for Lanterman DC reflects the proposed transfer of the facility to the California State University (CSU) System on July 1, 2015. As such, no funding has been included for costs associated with the continued operation of the facility in 2015-16. In accordance with Government Code sections 11011 and 11011.1 concerning surplus state property, the land will be declared in excess by DDS when it is no longer needed. The Department of General Services (DGS) will then report to the Legislature that the land is surplus. After the Legislature approves the property as surplus, DGS will take the lead in determining the future use of the property, and the disposition of the property will follow the established process.

Decertification Issues. The state's DCs undergo annual recertification surveys conducted by DPH to ensure that the facilities meet federal requirements for receipt of federal Medicaid funds. Fairview and Porterville Developmental Centers are licensed as General Acute Care Hospitals and provide supplemental services as distinct part skilled nursing facilities (SNF) and distinct part Intermediate Care Facilities for Individuals with Intellectual Disabilities (ICF-IID, also called "ICFs" in this document).

The pending decertification actions only apply to the distinct part ICF-IID. If decertified, a DC would not be eligible for federal funding for services provided in the distinct part ICF-IID. The pending actions do not impact the licenses of the DCs, so services would continue to be provided to residents.

- **Sonoma Developmental Center.** DDS voluntarily decertified four ICF units on January 17, 2013, to retain federal funding for the remaining seven ICF units. The assumption was that Sonoma DC would receive a favorable outcome on the survey and have all eleven ICF Units recertified by July 1, 2014. In July 2014, CDPH did not find sufficient progress in the PIP to warrant recertification. DDS has appealed that action. However, the four ICF units voluntarily decertified are not eligible for federal funding during the appeal process period. Without compliance with federal regulations, the State is liable for all incurred costs during the appeal period, and following until and unless certification is reestablished.

  On February 25, 2015, CMS notified the Department that Sonoma DC's Federal financial participation (FFP) would end on April 11, 2015. The Department remains optimistic that further improvements to the facility can be completed in order to bring the facility into compliance and regain FFP.

- **Program Improvement Plans at Fairview and Porterville Developmental Centers.** DDS entered into a Program Improvement Plan (PIP) with CDPH on January 15, 2014. The PIP addresses deficiencies in the Intermediate Care Facilities (ICF) at Fairview and Porterville DCs. The PIP allows DDS to retain federal funding for services in the ICF units while the facilities continue to make improvements in their services and systems. However, if recertification is not achieved, federal funding would cease for these programs. See chart on next page for current status of both facilities.

Incompetent to Stand Trial Population (IST). DDS has a request for $18 million to increase the capacity of Secure Treatment Program (STP) beds at Porterville DC. This proposal would add 32 new beds in order to accommodate the increasing number of individuals deemed incompetent to stand trial. In California, individuals with intellectual and developmental disabilities that are found to be incompetent to stand trial and who are charged with a violent felony or a sex offense are the responsibility of the state and undergo treatment at Porterville DC. This DC provides treatment and training to attain court competency to allow individuals to live successful lives in the community.

According to the Department, over the past two years, DDS has received increased pressure on the admissions of IST defendants to the Porterville DC STP, necessitating further available beds for this population. Based on conversations with DDS, this increase of 32 beds will not meet the full need of the current wait list, but will provide for the "gradual introduction of new residents as staff resources are acquired and safe supervision levels are achieved."

DC Ongoing Monitoring and Progress Report. Below is the Subcommittee staff's attempt to capture the current situation and issues of highest importance for the Assembly to track. Staff recommends that the DDS and LAO be asked to continue to utilize this chart as a baseline to create a continuing tool and regular progress check-in document for the DCs as oversight continues in the coming months and budget years.

DC	High-Level Profile	Recent History / Current Situation / Future Milestones
Fairview DC, located in Orange County	2014-15 In-Center Pop. = 277 2015-16 In-Center Pop. = 233 Change from Current Year (CY) to Budget Year (BY) = -44 (-16%) Open Units as of Jan. 2015: NFs = 6 ICFs = 9	• January 16, 2014 - DPH and DDS reached agreements that will enable Fairview, to retain federal Medicaid funding while it makes improvements to meet federal standards. • Most recent survey was just completed and exit information indicated some program plans may be out of compliance. The Department is still awaiting final results. • Department is awaiting further direction from CMS.
Porterville DC, located in Tulare County	2014-15 In-Center Pop. = 380 2015-16 In-Center Pop. = 367 Change from CY to BY =-13 (-3%) Open Units as of Jan. 2015: NFs = 3 ICFs = 17	• January 16, 2014 - DPH and DDS reached agreements that will enable Porterville, to retain federal Medicaid funding while it makes improvements to meet federal standards. • Porterville is scheduled to be re-surveyed within the coming months.
Sonoma DC, located in Sonoma County	2014-15 In-Center Pop. = 401 2015-16 In-Center Pop. = 352 Change from CY to BY = -49 (-12%) Open Units as of Jan. 2015: NFs = 11 ICFs = 11	• CMS notified the Department on February 25th, 2015 that funding will be continued through April 11, 2015. At that time, further negotiations will need to take place to determine the future of the Sonoma DC.

Currently, the DC population is 1,131. This is expected to decrease by 180 consumers by the end of 2015-16, for a total caseload of 951 individuals. This reflects a decrease of -16% from current year to budget year.

Developmental Services Task Force. Responding to advocates across the DDS system, the Health and Human Services Agency (HHSA) Secretary Diana Dooley created a task force to review DC issues. The Legislature formalized this with the passage of Assembly Bill 89 (Chapter 25, Statutes of 2013), which required reports to be issued to the Legislature. HHSA released a report titled "Plan for the Future of Developmental Centers in California," on January 13, 2014. Overall, the message of the report was that the DCs will need to transition from large congregate 24-hour nursing and Intermediate Care Facility services to a new model. The recommendations of this Task Force were that the future role of the State is to operate a limited number of smaller, safety net crisis and residential services coupled with specialized health care resource centers and public/private partnerships, as well as the Porterville DC - Secure Treatment Program (STP) and the Canyon Springs Community Facility.

In the 2014-15 budget, $13 million unspent Community Placement Plan funds from 2011-12 were utilized to implement recommendations from the Task Force. This included $11.7 million GF to develop Enhanced Behavioral Supports Homes, Community Crisis Homes, and to support SB 962 and Transition Homes.

Health and Human Services Agency Office of Investigation and Law Enforcement Support. Last year's budget approved a May Revise proposal by the Administration to create an Office of Investigation and Law Enforcement Support. A report from Health and Human Services Agency was due to the Legislature in January, but is still pending. The Agency should be prepared to discuss the report and its findings in depth at the Department of State Hospitals hearing.

ISSUES RAISED BY ADVOCATES

Comprehensive Closure Plans. Disability Rights California, ARCA, the LAO, and other advocates have cited the high costs for providing care in institutions to the developmentally disabled. Institutional costs are upwards of $500,000 per resident per year, whereas, according to the LAO, even the most expensive care in the community - Supported Living Services - costs an average of $301,000 annually per consumer.

ARCA requests that the Legislature direct DDS to develop comprehensive closure plans for the Fairview and Sonoma Developmental Centers. After the successful closures of Agnews and Lanterman Developmental Centers, ARCA claims that the Department and regional centers now have the tools to refine the process for the future and to simplify subsequent facility closures.

STAFF COMMENTS

As many advocates, as well as the LAO, have written about the need to close Sonoma and Fairview DCs, this Subcommittee may wish to request a report on best practices learned from the Agnews and Lanterman DC closures from DDS. According to DDS, one of the most successful aspects of the Lanterman DC closure was the coordination between DC and RC staff to develop resources to meet the needs of those transitioning into the community. The level of synchronization of efforts was unprecedented in a DC closure and helped to successfully transition every resident of the Lanterman facility into the community. The Subcommittee may wish to request a best practices report from the Department that can be utilized to determine guidelines for future DC closures. This report could be completed and returned to the Legislature by November 1, 2015, in order for this information to be prepared for next year's budget discussions.

Staff Recommendation: Hold open.

ISSUE 3: RATES AND WAGES FOR REGIONAL CENTERS

PANEL

- Jim Knight and Brian Winfield, Assistant Deputy Directors, Community Services Division, California Department of Developmental Services
- Kristopher Kent, Assistant Secretary, California Health and Human Services Agency
- Eileen Richey, Executive Director, Association of Regional Center Agencies
- Marty Omoto, Founder, California Disability Community Action Network
- Rashi Kesarwani, Fiscal and Policy Analyst, Legislative Analyst's Office
- Lawana Welch, Finance Budget Analyst, Department of Finance
- Public Comment on Rates and Wages Issues

RATES AND WAGES OVERVIEW

As reviewed in the Department Overview, DDS has sustained many cuts in previous years. In recognition of the need to assess the needs of the current system and provide oversight and a forum for discussion on changes to the DDS system, the California Health and Human Services Agency created a Developmental Services Task Force on Strengthening Community Services. This Task Force has broken into smaller workgroups in order to address specific aspects of Community Services, including a group focused on service rates and the rate-setting structure. As rates for RCs have been cut and frozen in previous budget years, the Subcommittee should continue to engage with advocates in order to remain up-to-date on any recommendations or developments by the Rates Workgroup related to rates. The Rates Workgroup convened on December 16, 2014 and February 24, 2015, and made tentative agreements on rate structure. The next meeting will be held in April.

The exact cost of implementing minimum wage increases is unknown by DDS, as they do not have any existing data available on the number of workers this will affect. Therefore, the costs are based on best estimates and may increase based on the amount of workers that require a wage increase.

GOVERNOR'S BUDGET PROPOSALS FOR 2015-16

The Governor's Budget includes the following proposals for Rates and Wages for Regional Centers:

- **Minimum Wage Increase.** $64.2 million increase ($36.6 million GF increase) due to Assembly Bill 10, Chapter 351, Statutes of 2013 that increases the State minimum wage from $9.00 to $10.00 effective January 1, 2016. The Department's 2015-16 budget increase would provide rate increases to be paid to specified RC vendors whom currently earn less than $10 per hour.

- **AB 1522 Healthy Workplace, Healthy Families Act of 2014.** $25.3 million increase (16.2 million GF increase) in POS to reflect costs associated with the implementation of AB 1522. Effective July 1, 2015, AB 1522 requires that an employee who works in California for 30 days or more in a calendar year is entitled to paid sick days.

ISSUES RAISED BY ADVOCATES

Promote System Sustainability. The Lanterman Coalition and the Association of Regional Center Agencies (ARCA) have both written encouraging an across-the-board ten percent increase in funding to the RCs and community service providers. ARCA requests that the Legislature work to reform funding for service rates and regional center operations in order to reach adequate funding levels. In the interim, advocates request an annual five percent funding increase across 2015-16 and 2-16-17 to the system until more holistic and comprehensive funding reform strategies are implemented. Advocates contend that without such rate structure changes, California will jeopardize the stabilization of the community system.

The expected population of the regional centers in 2015-16 is 288,317, an increase of 3.5 percent above the population in 2014-15. Advocates urge the Legislature to consider a total ten percent rate increase in order to meet the growing needs of community service programs by providing adequate funding to manage waitlists, maintain services and supports, and protect health and safety of those living in the community.

The Center for Autism and Related Disorders (CARD) is also in support of the ten percent across-the-board funding increase. CARD provides behavioral health treatment services for consumers from all of California's regional centers and notes that median rates do not reflect the cost of doing business, and cause many CARD facilities to operate at a substantial loss. Although CARD is large enough to absorb this loss, many smaller facilities are not able to do so, therefore threatening the stability of services available in the community.

Staff Recommendation: Hold open.

ISSUE 4: OTHER COMMUNITY SERVICES ISSUES

PANEL

- Jim Knight and Brian Winfield, Assistant Deputy Directors, Community Services Division, California Department of Developmental Services
- Evelyn Abouhassan, Senior Legislative Advocate, Disability Rights California
- Rick Rollens, Legislative Advisor to Association of Regional Center Agencies and Parent Advocate
- Rashi Kesarwani, Fiscal and Policy Analyst, Legislative Analyst's Office
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- Public Comment on Community Services Issues

COMMUNITY SERVICES OVERVIEW

As described in more detail under Issue 1, through the network of 21 Regional Centers (RCs), the Department supports the development and maintenance of services for eligible persons with developmental disabilities who reside in the community.

The Governor's Budget includes $5.7 billion total funds (TF) ($3.3 billion GF) for the Department in 2015-16; a net increase of $246 million above the updated 2014-15 budget, a 4.5 percent total fund increase (6.5 percent GF increase). The Governor's Budget projects a total community caseload of 288,317 consumers by January 31, 2016, and assumes an increase of 9,724 consumers over the updated 2014-15 caseload. The estimate proposes 2015-16 funding for services and support to consumers in the community at $5.1 billion TF ($3.0 billion GF), an increase of $452.0 million ($332.7 million GF) over the enacted budget.

GOVERNOR'S BUDGET PROPOSALS FOR 2015-16

The Governor's Budget includes the following proposals for DDS Community Services:

- **Caseload and Utilization.** The Governor's budget includes an increase of $308.8 million ($236.5 million GF increase) in regional center operations (OPS) and purchase of services (POS) to reflect changes in caseload and utilization due to updated population and expenditure data including Home and Community-Based Services (HCBS) Waiver enrollment, which was utilized more than was previously budgeted.

- **Restoration of Unrealized Savings from Senate Bill 946, Chapter 650, Statutes of 2011.** The Governor's budget includes an increase of $44.3 million GF in POS to reflect restoration of funding as a result of unrealized savings from SB 946, which requires health care insurers to provide coverage for behavioral health treatment for pervasive developmental disorder or autism. The 2012 May Revision included an estimated GF savings of $80 million for implementation of SB 946. Since implementation, the Department has realized savings of $35.7 million. DDS will review updated expenditure data at the May Revision.

- **Update of Federal Labor Regulations.** The Governor's budget includes an increase of $24.4 million ($13.1 million GF increase) in POS to reflect the full-year impact of the change in the Federal Labor Regulations regarding overtime.

- **Implementation of Behavioral Health Treatment (BHT) Services by Department of Health Care Services (DHCS).** The Governor's budget includes decrease of $2.0 million ($1.0 million GF decrease) in POS to reflect a reduction in expenditures for an estimated 292 new consumers who would receive BHT services through the DHCS as a Medi-Cal benefit per SB 870.

- **Reduction of One-Time Funding.** The Governor's budget includes a reduction of one-time funding from a re-appropriation of 2011-12 Community Placement Plan (CPP) funds of $13 million (GF) to implement some of the recommendations of the Developmental Centers Task Force.

REVIEW OF COMMUNITY SERVICES ISSUES

Federal Labor Regulations. In 2013, new regulations were developed for the Fair Labor Standards Act (FLSA) by the federal Department of Labor (DOL), resulting in impacts to DDS. The FLSA regulations ultimately affect both DDS and the In-Home Supportive Services program administered by the Department of Social Services. Under these new regulations, the State would have been required to provide funding to enable home care vendors to provide overtime compensation to their employees. The implementation of these regulations was halted following a Federal Judge's ruling invalidating them. In December of 2014, the United States District Court in Washington, D.C. issued a temporary restraining order staying the revised definition of "companionship services" until January of 2015. These regulations were due to go into effect on January 1, 2015. A federal district court recently ruled that DOL had overreached its authority when it revised the FLSA, and removes any requirement for the state to provide overtime compensation in DDS. As a result, the 5.82% rate increase for supported living, personal assistance and in-home respite agency services scheduled to begin January 1, 2015, did not go into effect at this time.

This year's budget includes $41 million ($22 million GF) to enable homecare vendors to provide overtime compensation to employees. If the federal labor regulations are ultimately deemed ineffective, the statutory provision providing overtime compensation would be removed. At May Revise, the Administration will revisit this topic to assess status of litigation and further state action.

Parental Fee Program. The Parental Fee Program assesses a fee to parents of children under the age of 18 who receive 24-hour out-of-home care through a regional center. The California State Auditor presented a report in January, which stated that the process that DDS uses to assess this fee is flawed and perforated by delays, incorrect calculations, and inconsistent processes. The initial fee assessment procedure is based on gross income, whereas the appeals process considers net income, which leads to the reduction of fees for 95% of appeals. The Department has agreed to work towards improving many of the recommendations cited in the audit.

Implementation of Early Start. The 2014-15 Budget included $8 million for the current year to restore eligibility to infants and toddlers to the level that was in place prior to the 2009-10 budget. This action also included $16 million General Fund (GF) for 2015-16 and ongoing years. On June 23, 2014, the United States Department of Education, Office of Special Education and Rehabilitative Services determined that California needed intervention in implementing aspects of the Early Start program. According to DDS, there is no risk of loss of Federal funding at this time.

Shannon's Mountain. In 2008, the Department of General Services (DGS) issued a Request for Proposal to allow for the development of Shannon's Mountain, a housing unit complex on the Fairview DC property. In 2012, DGS realized that they did not have statutory authority for all terms of this project. Specifically, the most pertinent issues were prevailing wage, and the allowed revenue sharing and subsidy of the units in order to provide subsidized rent for units for the developmentally disabled. The Department, DGS, and CHHS have been in discussions on how to move forward on this project, and as of the writing of this document had identified a project manager as well as the appropriate legal staff at DGS to determine statutory authority for the continuation of this project.

Developmental Services Task Force on Strengthening Community Services. On July 24, 2014, the Secretary of the California Health and Human Services Agency convened the Developmental Services Task Force, which is focused on strengthening community services. At the subsequent Task Force meeting on October 8, 2014, the Task Force members prioritized the subject areas most in need of review for sustainability of the community services system. Four general workgroups are being convened on the following topics:

- Rates/Rate Structure
- Caseload Ratios/RC Operations
- Medical and Mental Health Services and Supports
- Housing and Employment

Community Placement Plan Funding. Each year Community Placement Plan (CPP) funding ($80 million in 2014-15 and $68 million in 2015-16) is provided to regional centers to expand and improve services to meet the needs of DC residents transitioning to the community. As new CPP-funded resources become available, on average 175 to 200 consumers move out of a DC into community-based services each year. In the Lanterman DC closure, 92 homes were made available in the community through the usage of CPP funds. The majority of CPP funding is utilized for the start-up costs of regional centers. If there are any remaining unallocated/unexpended CPP funds for open fiscal years (a three year window) the funds may be reverted to the GF, or reappropriated, or redirected to cover other regional center purchase of services costs.

ISSUES RAISED BY ADVOCATES

Below is a representation of some of the input and feedback that was submitted for the Subcommittee for consideration on the Community Services issues:

- **Elimination of the Annual Family Program Fee.** ARCA requests elimination of the Annual Family Program Fee, which requires for parents of infants, toddlers, and children served by regional centers to pay a fee to the state. According to ARCA, the RCs have seen families declining or postponing services that their children need in response to the fee. The AFPF is assessed for all parents whose adjusted gross family income is at or above 400% of the federal poverty level (FPL), and who are receiving qualifying services through a regional center for their children ages 0-18. This differs from the Developmental Services' Parental Fee Program, which is assessed for the parents of children under the age of 18 with developmental disabilities that require 24-hour out-of-home care.

- **Invest in Innovative Services.** Disability Rights California (DRC) requests an investment in the self-determination service option, SB 468 (Statutes of 2013) Emmerson. This program provides an individual budget and increased flexibility to regional center consumers, allowing them to make individualized decisions to find what is most useful for them to live and work in the community. DDS recently submitted a federal waiver to authorize these services.

  Since cuts to DDS began in 2009, nearly every aspect of the community system has been cut. Cuts included: caps on respite hours, prohibition on payments for day programs, elimination of funding for social recreation and camp services, and new requirements to use generic medical services. SB 468 allows for an individual consumer of a regional center to receive a personal budget so that they may choose the services and programs within their treatment.

- **Ensure Equal Access to Regional Center Services.** Disability Rights California requests oversight from the Legislature to hold the Department and regional centers accountable for providing culturally and linguistically appropriate services for the developmentally disabled. SB 555 (Statutes of 2013) Correa, affirmed regional centers' obligations to provide documents in a consumers' native language. According to DRC, this does not consistently occur.

- **Additional Requests from DRC.** DRC also writes with requests for the Subcommittee to promptly implement the Federal Home and Community Based Services (HCBS) regulations and develop Transition Plans, which will ensure that residential services are provided in the most integrated setting possible. In conjunction with the HCBS regulations, DRC would like the Subcommittee to implement the Workforce Innovation and Opportunity Act (WIOA) prohibits the payment of sub-minimum wage for individuals aged 24 or younger, and requires the development of strategies to provide job exploration counseling, work-based learning opportunities, workplace readiness training, and instruction in self-advocacy.

LAO NOTES UNCERTAINTY

According to LAO, the Department's community caseload estimates for 2014-15 and projections for 2015-16 are reasonable, but notes that there are issues with the estimate of costs associated with greater utilization in the Community Services budget. Specifically, this discrepancy lies in the amount of federal draw down matching Medicaid funds in community care facilities (this includes specialized adult residential facilities) and support services (this includes supported living services). DDS is currently reviewing how funding is allocated between the service categories and exploring whether there is an opportunity to increase the draw down federal funds for utilization costs.

STAFF COMMENTS

As a response to newly adopted regulations by CMS to maximize opportunities to receive services in the most integrated settings, this Subcommittee may wish to make investments in the community services program to stabilize the system. As the population and funding for DCs decreases, perhaps funding could be redirected to the community to ensure the availability of services and quality of care for regional center consumers. CPP funding has provided the opportunity to start-up and operate regional centers, but proper oversight of the quality of services and rate structures is necessary to provide sustainability to the regional centers.

Staff Recommendation: Hold open.

5160 DEPARTMENT OF REHABILITATION

PANEL

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ISSUE 1: DEPARTMENT OVERVIEW AND BUDGET CHANGE PROPOSAL

The California Department of Rehabilitation works in partnership with consumers and other stakeholders to provide services and advocacy resulting in employment, independent living, and equality for individuals with disabilities.

OVERVIEW

Vocational Rehabilitation. The Vocational Rehabilitation Services Program delivers vocational rehabilitation services to persons with disabilities through vocational rehabilitation professionals in district and branch offices located throughout the state. In addition, the Department has cooperative agreements with state and local agencies (education, mental health, and welfare) to provide unique and collaborative services to consumers. The Department operates under a federal Order of Selection process, which gives priority to persons with the most significant disabilities.

Persons with disabilities who are eligible for the Department's vocational rehabilitation services may be provided a full range of services, including vocational assessment, assistive technology, vocational and educational training, job placement, and independent living skills training to maximize their ability to live and work independently within their communities.

The Department also provides comprehensive training and supervision to enable persons who are blind or visually impaired to support themselves in the operation of vending stands, snack bars, and cafeterias. Prevocational services are provided by the Orientation Center for the Blind to newly blind adults to prepare them for vocational rehabilitation services and independent living.

The Department also works with public and private organizations to develop and improve community-based vocational rehabilitation services for the Department's consumers. The Department sets standards, certifies Community Rehabilitation Programs, and establishes fees for services provided to its consumers.

Independent Living Services. The Department funds, administers, and supports 28 non-profit independent living centers in communities located throughout California. Each independent living center provides services necessary to assist consumers to live independently and be productive in their communities. Core services consist of information and referral, peer counseling, benefits advocacy, independent living skills development, housing assistance, personal assistance services, and personal and systems change advocacy.

The Department also administers and supports the Traumatic Brain Injury (TBI) Program. In coordination with consumers and their families, seven service providers throughout California provide a coordinated post-acute care service model for persons with TBI, including supported living, community reintegration, and vocational supportive services.

The Department also serves blind and deaf-blind persons through counselor-teacher services, purchase of reader services, and community-based projects to serve the elderly blind.

The Governor's budget proposes total spending of $435.5 million, an increase of 0.7 percent from the current year.

Fiscal Overview:

Fund Source	2013-14 Actual	2014-15 Projected	2015-16 Proposed	BY to CY Change	% Change
General Fund	**$56,974**	**$58,390**	**$58,390**	**-**	**-**
Traumatic Brain Injury Fund	925	1,004	1,004	-	-
Vending Stand Fund	908	2,361	2,361	-	-
Federal Trust Fund	338,969	362,990	365,980	2,990	.8
Reimbursements	5,994	7,680	7,680	-	-
Total Expenditures	**$378,166**	**$415,224**	**$425,899**	**10,675**	**2.6%**
Positions	1,782.6	1,829.0	1,860.0	31	1.7

The Governor's Budget proposes the following for DOR:

- **Work Incentive Planners.** DOR requests additional federal fund authority of $3.11 million and 31 ongoing full-time permanent positions to hire Work Incentives Planners (WIPs) to eligible DOR consumers receiving Supplemental Security Income/Social Security Disability Insurance benefits. The Department will utilize 100% federal program funds received form the Social Security Administration Cost Reimbursement program.

ISSUES RAISED BY ADVOCATES

Work Incentives Planners Proposal. The California Foundation for Independent Living Centers is a statewide association comprised of 21 Independent Living Centers. They raise concerns with the Department's proposal to hire 31 new benefit planners, and contend that this funding could better be used sustaining and improving the existing infrastructure for the payment of the wages of benefit planning staff.

Staff Recommendation: Hold open.