

## AGENDA

### ASSEMBLY BUDGET SUBCOMMITTEE NO. 1 ON HEALTH AND HUMAN SERVICES

ASSEMBLYMEMBER SHIRLEY N. WEBER, PH.D., CHAIR

WEDNESDAY, MARCH 19, 2014  
1:30 P.M. - STATE CAPITOL ROOM 4202

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## ITEMS TO BE HEARD

### **4300 DEPARTMENT OF DEVELOPMENTAL SERVICES**

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Please see the "Panel" listing at the end of this entire DDS section (at the end of Issue 3) for guidance on how DDS will be presented and discussed in the course of the hearing.

#### **ISSUE 1: PROGRAM AND BUDGET REVIEW**

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The Governor's Budget includes \$5.2 billion total funds (\$2.9 billion General Fund) for the Department in 2014-15; a net increase of \$221.8 million above the updated 2013-14 budget, a 4.5 percent increase.

The Department of Developmental Services (DDS) is responsible under the Lanterman Developmental Disabilities Services Act of 1969 (Lanterman Act) for ensuring that approximately 267,042 persons 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 four state-operated DCs and one state-operated community facility. The population 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 265,709 in the current year to 273,643 in 2014-15.
- The number of consumers living in state-operated residential facilities is estimated to be 1,049 in 2014-15 from the estimated 1,186 in 2013-14.

**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 265,709 consumers in 2013–14. . 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.

**Developmental Centers Program.** DDS operates four DCs: Fairview (Orange County), Lanterman (Los Angeles County), Porterville (Tulare County), and Sonoma (Sonoma County). Secure treatment services are provided at Porterville DC. 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 four 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.

**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 2014-15. 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 2014-15.

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. The Governor's budget does not propose any restorations for the Early Start program or for the suspended services.

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)

**Fiscal Overview.** The budget proposes \$5.2 billion (all funds) for DDS in 2014-15, which is a 4.5 percent net increase over estimated revised expenditures in 2013-14. General Fund expenditures for 2014-15 are proposed at \$2.9 billion, a net increase of \$132 million, or 4.7 percent, over estimated revised expenditures in 2013-14. This net increase in total expenditures generally reflects increases in the budget for the Community Services Program, partially offset by decreasing costs in the DCs Program budget.

Fund Source	2012-13	2013-14	2014-15	BY to CY Change	% Change
	Actual	Projected	Proposed		
<b>General Fund</b>	<b>\$2,655,676</b>	<b>\$2,797,370</b>	<b>\$2,929,511</b>	<b>132,141</b>	<b>4.7%</b>
General Fund, Proposition 98	6,190	5,708	5,179	(529)	(9.3)
Developmental Disabilities Program Development Fund	5,061	6,194	6,129	(65)	(1.0)
Developmental Disabilities Services Account	-	150	150	-	0
California State Lottery Education Fund	330	403	403	-	0
Federal Trust Fund	54,974	52,303	52,296	(7)	(0.01)
Reimbursements	2,085,261	2,119,032	2,209,236	90,204	4.3
Mental Health Services Fund	1,128	1,128	1,176	48	4.3
<b>Total Expenditures</b>	<b>\$4,808,620</b>	<b>\$4,982,288</b>	<b>\$5,204,080</b>	<b>221,792</b>	<b>4.5%</b>
<b>Positions</b>	<b>4,739.7</b>	<b>5,285.0</b>	<b>4,846.0</b>	<b>(439)</b>	<b>(8.3)</b>

**GOVERNOR'S BUDGET PROPOSAL FOR  
2014-15**

- **FFP Staffing.** DDS requests \$160,000 (\$108,000 General Fund) to convert 1.0 CEA II, Assistant Deputy Director, Office of Federal Programs and Fiscal Support, position from limited-term to permanent. The CEA II position was originally established in 2010-11 as a two-year limited-term position pending further review of workload associated with federal funding requirements. In 2012-13 the position was approved as limited-term for an additional two years. On May 10, 2013, CalHR approved the permanent establishment and level of this CEA position based on the ongoing workload associated with maintaining federal funding of approximately \$1.8 billion.

DDS states that this request is consistent with state level policy to achieve federal financial participation (FFP) where possible, and to maintain existing federal funding. As the budget assumes significant amount of FFP in the DDS budget in the current and budget year, DDS is asking for this resource to work with the federal Centers for Medicaid and Medicare Services (CMS) and demonstrate the administrative/operational infrastructure and capacity to carry out administrative duties and provide guidance and monitoring of the community system to ensure compliance with federal requirements.

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**Staff Recommendation:**

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Staff recommends holding this issue open, as with all of the DDS items, for action at a later hearing.

**ISSUE 2: STATE DEVELOPMENTAL CENTERS**

The DDS operates four 24-hour facilities known as DCs -- Fairview DC in Orange County, Lanterman DC in Los Angeles 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 1,300 consumers in 2013-14. Each DC is licensed by the Department of Public Health (DPH), and certified by DPH on behalf of 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 2014-15**

The budget proposes \$526 million (all funds) for the DCs Program in 2014-15, which is a 5.4 percent net decrease below estimated revised expenditures in 2013-14. General Fund expenditures for 2014-15 are proposed at \$275 million, a net decrease of \$31 million, or 10 percent, below estimated revised expenditures in 2013-14.

- **Employee Compensation Changes and Statewide Fleet Reduction.** Net increase of \$6.9 million (\$4.3 million GF) due to Control Sections for employee compensation increases approved through the collective bargaining process, changes in retirement contribution rates, and savings from Executive Order B-2-11 Fleet Reduction.
- **Sonoma DC Program Improvement Plan (PIP).** \$9.2 million (\$5.1 GF) and 118.5 position increases for continuing costs into 2014-15 at Sonoma DC for the PIP to ensure the facility is in compliance with federal and state licensing and certification requirements.

- **DC Population Decrease Staffing Adjustments (Excluding Lanterman).** -\$12.8 million (-\$7.2 GF) decrease for population staffing adjustments at the DCs for Level of Care (LOC) 114.0 and Non-Level of Care (NLOC) 55.0 (excluding Lanterman DC).
- **Lease Revenue Debt Service Adjustment.** \$2.8 million (\$2.8 GF) increase due to Control Section 4.30 for an adjustment to the Lease Revenue Debt Service.
- **Restoration of Federal Reimbursements at Sonoma DC.** \$15.7 million funding shift from the general fund to reimbursement to eliminate the GF backfill in 2013-14 for the four Sonoma ICF units withdrawn from the Medicaid Provider Agreement to ensure continued federal funding for the remaining six ICF units.
- **Reduction in the Lottery Education Funds.** -\$62,000 decrease due to a reduction in the Lottery Education Funds.
- **Foster Grandparents Program Funding Transfer.** -\$0.3 million (-\$0.2 GF) decrease to transfer funding from Foster Grandparents Program to Community Services.
- **Lanterman Closure Activities.** Net decrease of -\$22.7 million (-\$12.0 GF) for Lanterman closure activities as detailed below.
- **Lanterman DC Closure Update.** The Governor's Budget continues to support Developmental Center and Community efforts towards closure of the Lanterman facility on December 31, 2014. The Department, working with regional centers, anticipates the transition of approximately 120 Lanterman DC residents in FY 2013-14. The Governor's Budget anticipates the transition of another 22 residents to community living arrangements in FY 2014-15 with the anticipated resident population being zero on December 31, 2014, with the closure of the facility.

In addition to the Control Sections impacting the Lanterman DC, the Governor's Budget reflects a net decrease in 2014-15 of -\$22.7 million (-\$12.0 million GF) for position reductions due to the Lanterman DC closure, staff separation costs, enhanced staffing adjustments, and post-closure activities. The reduced funding is the net of the following adjustments:

- \$33.7 million (-\$18.5 GF) decrease and -317.0 position reductions with the anticipated residential population being zero on December 31, 2014;
- \$11.8 million (\$6.4 GF) increase to support numerous activities with the closure of the facility and separation of staff;
- -\$2.3 million (-\$1.2 GF) and -40.0 positions reduction of Enhanced Staff that are no longer needed for closure related activities beginning July 1, 2014;



- -\$2.0 million (-\$1.1 GF) reduction of half year funding for the remaining 48.0 Enhanced Staff Positions to support costs during the closure period of July 1, 2014 through December 31, 2014; and
  - \$3.5 (\$2.4 GF) and 68.0 position increase for post-closure related activities. This funding is for the period from January 1, 2015 through June 30, 2015.
- **Headquarters.** The Governor's Budget proposes Headquarters operations funding for FY 2014-15 of \$40.7 million (\$25.9 million GF), an increase of \$1.4 million (\$.9 million GF) compared to the FY 2013-14 enacted budget. The Headquarters budget increase is composed of the following:
    - \$.5 million (\$.3 GF) increase due to employee compensation increases approved through the collective bargaining process and changes in retirement contribution rates.
    - \$0.9 million (\$.6 GF) increase due to the *Vendor Audit Positions* Budget Change Proposal (BCP) that requests 7.0 limited-term auditor positions to assist with the increased demand for vendor audits and the associated recovery of funds from reduced vendor fraud, waste, and abuse.
    - Conversion of 1.0 limited-term Career Executive Assignment, Assistant Deputy Director position to 1.0 permanent full-time in the Office of Federal Programs and Fiscal Support, Community Services Division, at no additional costs.
  - **Deferred Maintenance.** The Governor's Budget provides \$10 million for DDS as part of an overall \$100 million funding effort for various state agencies to address critical infrastructure deferred maintenance needs. The Legislative Analyst's Office (LAO) reports that it is their understanding that the funds will be used to replace boilers at Sonoma DC and Porterville DC and retrofit boilers at Fairview DC to ensure compliance with emissions regulations established by local Air Quality Management Districts. More detail on the proposed use of these funds has been requested of DDS, but not yet received by the Subcommittee.

#### FUTURE OF DCs TASK FORCE

Since the 1960s, with the passage of the Lanterman Act, the role of the DCs has been changing. The resident population has dropped from a high in 1968 of 13,400, with thousands on a waiting list for admission, to 1,335 residents as of January 1, 2014. The population at each of the four facilities, originally designed to serve between 2,500 and 3,500 individuals, is now below 500. Additionally, the trailer bill to 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.

Each year Community Placement Plan (CPP) funding (\$67 million in 2013-14) 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. With the CPP funding provided in FY 2011-12 through 2013-14, DDS projects that over 500 new residential beds will be available for DC movers during the next 18 months. The moratorium, coupled with CPP placements and prior changes in the service delivery system, has reduced the reliance on State-operated DCs and expedited the decline in resident population in these facilities.

Responding to advocates across the DDS system, the Assembly discussed these issues during the subcommittee process. Health and Human Services Agency (HHS) Secretary Diana Dooley announced in May that the Agency was seeking the creation of 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. HHS released a report titled "Plan for the Future of Developmental Center In California" on January 13, 2014 including six recommendations, summarized below.

1. More community style homes and facilities should be developed to serve individuals with enduring and complex medical needs using existing models of care.
2. The State should operate at least two acute crisis facilities, like the Fairview DC program, and small transitional facilities. The State should develop a new "SB 962" like model that will provide a higher level of behavioral services. Funding should be made available so that regional centers can expand mobile crisis response teams, crisis hotlines, day programs, short-term crisis homes, new-model behavioral homes, and supported living services for those transitioning to their own homes.
3. For individuals who have been involved in the criminal justice system, the State should continue to operate the Porterville DC-STP and the transitional program at Canyon Springs Community Facility. Alternatives to the Porterville DC-STP should also be explored.
4. The development of a workable health resource center model should be explored to address the complex health needs of DC residents who transition to community homes.
5. The State should enter into public/private partnerships to provide integrated community services on existing State lands, where appropriate. Also, consideration should be given to repurposing existing buildings on DC property for developing service models identified in recommendations 1-4.
6. Another task force should be convened to address how to make the community system stronger.

Overall, the message of the report is 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 are 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.

A primary question for the administration from the Legislature and stakeholders is how the Governor's budget will operationalize the recommendations set forth by the work of the Task Force.

#### REVIEW OF DC ISSUES

**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. The Governor's Budget includes \$9.2 million (\$5.1 million General Fund) to reflect anticipated costs related to the ongoing implementation of the Sonoma Developmental Center Program Improvement Plan. The Plan was entered into on March 13, 2013 with the California Department of Public Health and the Centers for Medicare and Medicaid Services (CMS) to bring the facility back into compliance with federal requirements. DDS is currently working with Public Health and CMS on certification actions at the Fairview, Porterville and Lanterman Developmental Centers and recently announced that it entered into an agreement specifying a path to resolving these certification issues. The specific plan for each of the three DCs will dictate the amount of state funding, if any, needed to make improvements to avoid federal decertification and the loss of federal Medicaid funds. As of this writing, the timing for the completion of a specific plan for each of the three DCs is uncertain. Additional state resources may be required to make improvements at each of the three DCs.

Lanterman, 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): these developmental centers in their distinct part ICF-IID serve 70,188 and 172 clients respectively. 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.

**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
<b><i>Fairview DC, located in Orange County</i></b>	2013-14 In-Center Pop. = 319  2014-15 In-Center Pop. = 276  Change from Current Year (CY) to Budget Year (BY) = -43 (-14%)  Open Units as of Jan. 2013: Nursing Facilities (NFs) = 7 Intermediate Care Facilities (ICFs) = 9	<ul style="list-style-type: none"> <li>• 2013 DPH annual recertification survey identifies four federal compliance issues under the following Conditions of Participation: Client Protection, Health Care Services, Active Treatment, and Governing Body. Two situations in Aug. 2013 were labeled "Immediate Jeopardy (IJ)," since abated.</li> <li>• 8 ICF units were impacted.</li> <li>• 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.</li> <li>• Fairview will implement improvements based on an action plan specific to the DC, to be developed through an independent review by outside experts on the root cause of deficiencies and action items to prevent the deficiencies.</li> </ul>
<b><i>Lanterman DC, located in Los Angeles County</i></b>	2013-14 In-Center Pop. = 82  2014-15 In-Center Pop. = will decrease to 0 by 12/31/14  Open Units as of Jan. 2013: NFs = 3 ICFs = 8	<ul style="list-style-type: none"> <li>• Scheduled to close by December 31, 2014.</li> <li>• 22 consumers expected at the start of the 2014-15 fiscal year.</li> <li>• 2013 DPH annual recertification survey identifies three federal compliance issues under the following Conditions of Participation: Client Protection, Active Treatment, and Governing Body. There was one IJ case during the Sept. 2013 survey, since abated.</li> <li>• 5 ICF units were impacted.</li> <li>• January 16, 2014 - DPH and DDS reached agreements that will enable Fairview, to retain federal Medicaid funding while it makes</li> </ul>

DC	High-Level Profile	Recent History / Current Situation / Future Milestones
		<p>improvements to meet federal standards.</p> <ul style="list-style-type: none"> <li>An independent monitor will oversee the facility's closure to ensure the health and safety of the remaining consumers.</li> </ul>
<b>Porterville DC, located in Tulare County</b>	<p>2013-14 In-Center Pop. = 416</p> <p>2014-15 In-Center Pop. = 376</p> <p>Change from CY to BY = -40 (-10%)</p> <p>Open Units as of Jan. 2013: NFs = 3 ICFs = 17</p>	<ul style="list-style-type: none"> <li>2013 DPH annual recertification survey identifies federal compliance issues 2013 DPH annual recertification survey identifies six federal compliance issues under the following Conditions of Participation: Client Protection, Health Care Services, Active Treatment, Facility Staffing, Physical Environment, and Governing Body. There were five IJ situations (one in July 2013 and four in Oct. 2012), since abated.</li> <li>7 ICF units were impacted.</li> <li>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.</li> <li>Porterville will implement improvements based on an action plan specific to the DC, to be developed through an independent review by outside experts on the root cause of deficiencies and action items to prevent the deficiencies.</li> </ul>
<b>Sonoma DC, located in Sonoma County</b>	<p>2013-14 In-Center Pop. = 449</p> <p>2014-15 In-Center Pop. = 400</p> <p>Change from CY to BY = -49 (-11%)</p> <p>Open Units as of Jan. 2013: NFs = 11 ICFs = 10</p>	<ul style="list-style-type: none"> <li>July 2012 – recertification survey conducted by DPH identifies health and safety issues at Sonoma DC.</li> <li>Dec. 2012 – DPH announces I is taking significant action to protect Sonoma DC residents due to deficient practices.</li> <li>Jan. 2013 – DDS voluntarily withdraws four ICF units from federal certification with GF backfill (\$16 M loss of federal funds in 2013-14, \$7 M in 2012-13).</li> <li>Jan. 2014 – DDS requests and JLBC approves \$7 M (\$4 M GF) for unanticipated costs of implementing the action plan</li> </ul>

DC	High-Level Profile	Recent History / Current Situation / Future Milestones
		<p>beginning in 2013-14, enabling the following improvements:</p> <ul style="list-style-type: none"> <li>○ Increase of \$4 million (\$2.1 million General Fund) to augment staffing levels for licensed medical professionals and other staff including: psychiatrists; direct care staff, such as registered nurses, licensed vocational nurses, and psychiatric technicians; rehabilitation, occupational, and physical therapists; speech pathologists; office technicians; and independent program coordinators. The augmentation provides for 112 new positions (which includes 8 positions secured through contracts).</li> <li>○ Increase of \$2.7 million (\$1.5 million General Fund) to provide a one-time enhanced training to all ICF staff and to pay overtime costs to backfill direct care staff attending training.</li> <li>○ Increase of \$400,000 (\$200,000 General Fund) to open a new ICF living unit to decrease the population in existing ICF units and reduce aggressive incidents between clients. The opening of a new ICF unit does not require a capital outlay expenditure. Some of the additional direct care staff positions will staff the new ICF unit.</li> <li>○ Increase of \$100,000 General Fund to purchase three additional wheelchair-accessible vehicles so each ICF living unit at Sonoma DC has access to transportation for community outings or on-campus transport.</li> </ul> <ul style="list-style-type: none"> <li>● Gov’s 2014-15 proposed budget requests \$9 M (\$5 M GF) for full-year costs of implementing the action plan.</li> <li>● March 30, 2014 is earliest possible date for the four decertified units to attain certification; Gov’s budget assumes that lost federal funds of \$16 M will be restored beginning July 1, 2014.</li> </ul>
<p><b><i>Canyon Springs, located in Riverside</i></b></p>	<ul style="list-style-type: none"> <li>● 2013-14 In-Center Pop. = 58</li> <li>● 2014-15 In-Center Pop. = 58</li> <li>● Change from CY to BY = 0</li> </ul>	

DC	High-Level Profile	Recent History / Current Situation / Future Milestones
<i>County (leased community facility)</i>		
<i>Total DC Population</i>	<ul style="list-style-type: none"> <li>• Pop. was 2,877 in 2006-07</li> <li>• Average annual decline is 10.4 percent</li> <li>• Pop. is 1,242 in 2013-14</li> <li>• Pop. is estimated to decrease by 132 consumers in 2014-15, for a total caseload of 1,110 in BY</li> <li>• Percentage change from CY to BY = -11%</li> </ul>	

#### 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 DC issues:

- **Lanterman Coalition Support of Task Force Recommendations.** The Lanterman Coalition submitted a letter endorsed by 17 stakeholder organizations stating that given challenges associated with institutional models of care and a decreasing census in DCs, the cost of supporting each individual DC continues to rise and is unsustainable. Additional costs associated with the correction of deficiencies and deferred maintenance of aging facilities highlight the need to focus available resources on developing community resources, which is consistent with the recommendations in the DC Task Force report. The Coalition calls on the Legislature to direct DDS to develop a plan to implement the recommendations of the Developmental Center Task Force.
- **Comprehensive Assessments.** The needs of individuals who reside in state-operated facilities are assessed and community resources are developed to assist those who can appropriately transition to the community. Advocates have requested a status report from the administration on how many of the comprehensive assessments have been completed for all DC consumers. The Subcommittee is in receipt of some of this information for the first two quarters of 2013-14. Staff suggests that the Subcommittee recommend that the administration convene stakeholders prior to May 1 to provide information on how it has progressed toward the statutory requirement for comprehensive assessment of each DC consumer, and what its plans are for continuing to work to ensure that all initial assessments are completed no later than December 31, 2015.

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#### Staff Recommendation:

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Staff recommends holding all of the DC issues open, as with all of the DDS items, for action at a later hearing.

**ISSUE 3: COMMUNITY SERVICES ISSUES**

The budget proposes \$4.7 billion (all funds) for the Community Services Program in 2014-15, which is a 5.7 percent net increase over estimated revised expenditures in 2013-14. Of this total, \$580 million is proposed for RC operations expenditures and the remainder of \$4.1 billion is for the purchase of services from RC vendors. General Fund expenditures for the Community Services Program in 2014-15 are proposed at \$2.6 billion, a net increase of \$162 million, or 6.5 percent, above the estimated revised expenditures in 2013-14. This net increase mainly reflects caseload growth and greater utilization of services, along with rising costs for vendors as a result of the state-mandated increase in the hourly minimum wage and recent federal labor regulations impacting home care workers.

**GOVERNOR'S BUDGET PROPOSALS FOR 2014-15**

- **Caseload and Utilization.** \$138.6 million increase (\$82.9 million GF) in regional center operations (OPS) and purchase of services (POS) to reflect caseload and utilization due to updated population and expenditure data including HCBS Waiver enrollment above budgeted levels.
- **Regional Center Operations Adjustment.** \$2.1 million increase GF in OPS to reflect an adjustment to correct the double counting of savings related to the 2009-10 Early Start Eligibility savings proposal.
- **Impacts from Other Departments.** -\$3.1 million GF decrease in POS to reflect the Department of Health Care Services restoration of Enteral Nutrition and partial restoration of Adult Dental Services as a Medi-Cal Optional Benefit.
- **Minimum Wage Increase.** In accordance with Assembly Bill (AB) 10 (Alejo), Chapter 351, Statutes of 2013 which increases the minimum wage from \$8.00 to \$9.00 effective July 1, 2014, provides a \$0.1 million (\$0.1 million GF) increase in OPS due to the minimum wage increase will impact positions in regional center Core Staffing that are budgeted at salary levels that are below \$9.00; and \$110.1 million (\$69.3 million GF) increase in POS applies to services which rely on employees that are paid minimum wage.
- **Federal Overtime Change.** \$7.5 million (\$4.0 million GF) increase in POS to reflect the impact of regulatory changes in the United States Department of Labor Fair Labor Standards to include overtime compensation for service providers that previously were not required to pay overtime effective, January 1, 2015.
- **Vendor Audits.** DDS requests \$897,000 (\$605,000 General Fund) for 7.0 two-year, limited-term auditor positions to meet workload associated with increased demand for vendor audits and associated recovery of funds. The implementation of the Department's whistleblower process, coupled with the fraud, waste, and abuse



identified during recent audits, requires additional auditing resources to ensure the adequate oversight and review of provider billings.

DDS states that this proposal is consistent with the current policies, priorities, and initiatives of the administration in that it ensures increased accountability within the DDS system of services and supports and ensures that funds that have been improperly disbursed are remitted back to the state. For a number of years, DDS has maintained and supported the need for increased accountability of its vendor community; therefore, the requesting positions are consistent with the Department's Strategic Plan concerning accountability. The potential revenue generated from additional audit staff could increase recoveries from \$6.9 million to \$11.7 million or more per fiscal year.

#### 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:

- **Restore Early Start.** Disability Rights California (DRC) and the Association of Regional Center Agencies (ARCA) have both written encouraging restoration of Early Start funding to pre-2009 levels. They state that the reductions and changes in eligibility criteria resulted in children not receiving early treatment and adequate, appropriate services. Responding to requests from advocates, in 2013, the Assembly took action in the subcommittee process to restore eligibility for services to infants and toddlers who have a 33 percent delay in one domain (rather than continuing to require greater delays of 50 percent in one domain, or 33 percent in two or more domains, consistent with changes made as part of 2009 budget cuts). This change required a reinvestment of \$12 million General Fund and would have been effective October 1, 2013.

Early Start provides early intervention and support services to families with about 30,000 infants and toddlers who have a developmental delay or disability, or an established risk condition with a high probability of resulting in a delay. The issue went to Budget Conference Committee and ultimately did not receive any additional funding in 2013-14.

- **Promote System Sustainability.** The Lanterman Coalition and ARCA have written regarding the service delivery system, including the Regional Centers and vendored provider agencies, and contend that the system is currently unable to provide services and supports needed to protect health and safety and support integration into the mainstream life of the community. Advocates request a five percent annual increase in provider rates and regional center operations budgets as a "down payment" to ensure system stability until DDS arrives at a cost-based rates and budgeting system.

- **Promote Work for Adults with Developmental Disabilities.** The Lanterman Coalition requests a ten percent increase to Supported Employment Programs as a way to provide an effective path to employment. Inadequate funding of supported work and job development services has led to a decline in employment for Californians with developmental disabilities. Advocates contend that employment is by far the best option to insure that DD consumers are integrated into the mainstream life of the community.
- **Remove Regional Center Prohibition on Paying for Co-Pay and Deductibles.** The Lanterman Coalition and ARCA have written regarding the provision of timely behavioral supports to persons with Autism Spectrum Disorders (ASD). These services have allowed for integration into the mainstream life of the community, while reducing the long term cost of supports for persons with ASD. The requirement that private insurance companies fund behavioral supports to persons with Autism has been successful in reducing costs to the state for those services. Unfortunately, advocates contend, the prohibition on payment of deductibles and restriction on payment of co-payments has resulted in families having to choose between dropping their insurance coverage or discontinuing essential services due to their inability to afford the cost of the deductible or co-pays. They state that in some cases the cost to regional centers can be even more than the cost of paying these co-pays and deductibles. These advocates urge the legislature to remove the language prohibiting the payment of deductibles attributed to behavioral services and remove the limitations on covering co-payments for behavioral supports. To further exacerbate the problem, when children transitioned out of the Healthy Families Program into Medi-Cal many lost access to Applied Behavioral Analysis services. Therefore, these stakeholders additionally recommend California cover medically necessary Behavioral Health Treatment for Medi-Cal beneficiaries.
- **Invest in Family Caregivers.** Services provided under the Lanterman Act allow individuals to live in natural settings of their choice. Over 70% of Californians with developmental disabilities are supported in their family home, many with the assistance of services such as In-Home Supportive Services (IHSS) and regional center funded respite. These services allow families to maintain individuals at home at a significant cost savings to the state. Limitations on the number of respite hours that regional centers can authorize combined with the Governor's proposal to limit each IHSS worker's hours to 40 per week will stretch many families' emotional and financial resources to the point that maintaining the individual in the family home is no longer feasible. The Lanterman Coalition asks that the Legislature determine respite hours based only on the needs of each family and to allow chosen IHSS workers to provide the necessary hours of assistance to each individual.
- **Revisit Past Policy Changes.** The Lanterman Coalition also asks for the repeal of trailer bill language that imposed fiscal audit requirements on agencies with budgets below \$2 million and the parental fee that advocates contend costs more to determine and collect than generates savings. There are also requests from advocates to revisit the number of holidays required for RCs.

- **Additional Requests from DRC.** DRC also writes with requests for the Subcommittee to consider adverse impacts for some children in the Early and Periodic Screening, Diagnosis, and Treatment (EPSDT) program whose nursing home hours at age 21 make them vulnerable to losing services. DRC also writes to request restoration of a state supplement for the IHSS share of cost for certain recipients and with a proposal to equalize funding for institutions and community-based services to eliminate institutional bias. This and other proposals continue to be reviewed by Subcommittee staff.

The next page lists the panel that will address each of the issues in this DDS section.

<b>DDS PANEL FOR ALL ISSUES</b>
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**Special Guest**

- Secretary Diana Dooley, California Health and Human Services Agency

**Department Program and Budget Overview**

- Santi Rogers, Director, Department of Developmental Services

**Developmental Centers Issues and Budget**

- Patricia Flannery, Deputy Director, Developmental Centers Division, Department of Developmental Services
- Legislative Analyst's Office
- Department of Finance
- Tony Anderson, Executive Director, The Arc California and Chair, Lanterman Coalition
- Catherine Blakemore, Executive Director, Disability Rights California

**Community Services Issues and Budget**

- Nancy Bargmann, Deputy Director, Community Services Division, Department of Developmental Services
- Legislative Analyst's Office
- Department of Finance
- Rick Rollens, Legislative Advisor to the Association of Regional Center Agencies
- Will Sanford, Executive Director, Futures Explored and Chair, California Disability Services Association, Budget Committee

**Public Comment**

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**Staff Recommendation:**

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Staff recommends holding all DDS issues open pending further consideration and the May Revision.

**5160 DEPARTMENT OF REHABILITATION****ISSUE 1: PROGRAM AND BUDGET REVIEW**

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. Pre-vocational 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.

### Fiscal Overview:

Fund Source	2012-13	2013-14	2014-15	BY to CY Change	% Change
	Actual	Projected	Proposed		
<b>General Fund</b>	<b>\$55,266</b>	<b>\$56,972</b>	<b>\$57,007</b>	<b>35</b>	<b>0.06%</b>
Traumatic Brain Injury Fund	1,060	946	1,002	56	5.9
Vending Stand Fund	982	2,361	2,361	-	-
Federal Trust Fund	314,812	347,265	357,849	10,584	3
Reimbursements	6,046	7,680	7,680	-	-
<b>Total Expenditures</b>	<b>\$378,166</b>	<b>\$415,224</b>	<b>\$425,899</b>	<b>10,675</b>	<b>2.6%</b>
<b>Positions</b>	<b>1,708.3</b>	<b>1,823.0</b>	<b>1,829.0</b>	<b>6</b>	<b>0.3</b>

### PANEL

- Joe Xavier, Director, Department of Rehabilitation
- Legislative Analyst's Office
- Department of Finance

**ISSUE 2: BUDGET CHANGE PROPOSALS**

The Governor's Budget proposes the following for DOR:

- **Traumatic Brain Injury Fund.** DOR requests an additional \$500,000 allocation in 2014-15 to the Traumatic Brain Injury Fund from the Driver Training Penalty Assessment (DTPA) Fund. DOR states that this proposal affects the amount of DTPA funds that would otherwise revert to the General Fund. The Controller's Office reports the Seatbelt Penalty Account has decreased by over \$44 million since 2006-07, which has resulted in a loss of almost \$300,000 to the TBI Fund. Due to diminishing revenues, the TBI program is at severe risk of becoming unstable and unable to provide essential services to persons with TBI. TBI consumers continue to grow due to early detection, awareness, better technology, and medical treatment making it even more critical for DOR to maintain this level of service.

DOR states that this request will allow DOR to finalize an application for and the implementation of a Home and Community Based Services (HCBS) waiver program. The HCBS waiver program is estimated to provide \$250,000 to \$300,000 of revenue that can be used to ensure essential services can be provided, uninterrupted, through seven TBI sites until the sunset date of 2019. There is no other funding source that's available to DOR at this time to continue to fund all seven TBI sites.

- **CaPROMISE Federal Grant.** DOR requests an increase of \$10 million in federal authority beginning in 2014-15 for the CaPROMISE federal grant. The grant period is currently slated for five years and there is no state match requirement. Due to the increase in workload to administer and oversee the grant, the DOR also requests six permanent full-time positions for required administrative and program oversight, and to perform mandated accounting, contracting, and data management activities. The cost for the positions is \$328,183 and is presumed to come from the federal grant monies.

The competitive federal grant, entitled "Promoting the Readiness of Minors in Supplemental Security Income (PROMISE)," is a joint initiative of the U.S. Department of Education, U.S. Social Security Administration (SSA), U.S. Department of Health and Human Services, and the U.S. Department of Labor to develop and implement model demonstration projects that promote outcomes for 14 to 16 year old Supplemental Security Income (SSI) recipients and their families. The grant period began October 1, 2013 and is 100 percent federally funded, with no state match requirement.

PANEL
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- Joe Xavier, Director, Department of Rehabilitation
  - Please provide a brief overview of each proposal.
- Legislative Analyst's Office
- Department of Finance
- Public Comment

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**Staff Recommendation:**

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Staff recommends holding the DOR BCPs open pending further consideration.

Staff also recommends that the Subcommittee ask for DOR to meet with budget staff and the LAO to consider a regular format for reporting on the impact and outcomes of federal grant dollars and programs administered in California by DOR. A similar request will be made to the California Department of Aging at its upcoming hearing on March 26, 2014.