

AGENDA

ASSEMBLY BUDGET SUBCOMMITTEE NO. 1 ON HEALTH AND HUMAN SERVICES

ASSEMBLYMEMBER DR. JOAQUIN ARAMBULA, CHAIR

WEDNESDAY, FEBRUARY 22, 2023

1:30 P.M. – STATE CAPITOL, ROOM 126
(Please note the room change.)

We encourage the public to provide written testimony before the hearing. Please send your written testimony to: BudgetSub1@asm.ca.gov. Please note that any written testimony submitted to the committee is considered public comment and may be read into the record or reprinted.

The Capitol will be open for attendance of this hearing. The public may attend this hearing in person or participate by phone. This hearing can be viewed via live stream on the Assembly's website at <https://assembly.ca.gov/todayevents>.

*A moderated telephone line will be available to assist with public participation. After all witnesses on all panels and issues have concluded, and after the conclusion of member questions, the public may provide public comment by calling the following toll-free number:
1-877-692-8957 / Access Code: 131 51 26.*

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All panelists are asked to please be succinct and brief in their presentations (5 minutes maximum per speaker please) in order to facilitate the flow of the hearing. Thank you.

ISSUE 1. IMPLEMENTATION REVIEW AND OVERSIGHT – EQUITY GOALS AND STRATEGIES TO REDUCE DISPROPORTIONALITIES IN THE DDS SYSTEM

- Nancy Bargmann, Director, Department of Developmental Services
- Leinani Walter, Chief Equity Officer, Department of Developmental Services
- Grace Huerta, Mother, President/Co-Founder of Exceptional Family Center in Kern County, and Vice-President of The Arc of California
- Dora Contreras, Grandparent of Person Served at Valley Mountain Regional Center and Manager, Integrated Community Collaborative (ICC) Integradoras
- Judy Mark, President, Disability Voices United and Parent of Person Served by a Regional Center
- Vivian Haun, Senior Attorney, Intellectual/Developmental Disabilities Practice Group, Disability Rights California
- Amy Westling, Executive Director, Association of Regional Center Agencies
- Christopher Odneal, Staff Finance Budget Analyst, Department of Finance
- Ryan Anderson, Principal Fiscal and Policy Analyst, Legislative Analyst’s Office

ISSUE 2. IMPLEMENTATION REVIEW AND OVERSIGHT – PROVIDER ADEQUACY, RATES, QUALITY INCENTIVES, AND THE PROVISION OF SERVICES

- Jim Knight, Deputy Director, Department of Developmental Services
- Ruby Keefe, Self-Advocate and Person Served by Alta Regional Center
- Judy Mark, President, Disability Voices United and Parent of Person Served by a Regional Center
- Barry Jardini, Executive Director, California Disability Services Association representing the Lanterman Coalition
- Mark Melanson, Executive Director, California Community Living Network (CCLN)
- Eric Zigman, Executive Director, Golden Gate Regional Center
- Christopher Odneal, Staff Finance Budget Analyst, Department of Finance
- Ryan Anderson, Principal Fiscal and Policy Analyst, Legislative Analyst’s Office

ISSUE 3. IMPLEMENTATION REVIEW AND OVERSIGHT – TRANSITION PLAN TO PHASE OUT SUBMINIMUM WAGE

- Aaron Carruthers, Executive Director, State Council on Developmental Disabilities
- Ernie Cruz, Deputy Director, Department of Developmental Services
- Maria Marquez, SCDD Councilmember, Former Sheltered-Workshop Employee, San Gabriel Pomona Regional Center
- Ken Barnes, Former CEO of Options for All, based in San Diego
- Melissa Gruhler, Executive Director, Far Northern Regional Center

- Kia Cha, Principal Program Budget Analyst, Department of Finance
- Ryan Anderson, Principal Fiscal and Policy Analyst, Legislative Analyst's Office

ISSUE 4. IMPLEMENTATION REVIEW AND OVERSIGHT – HOME AND COMMUNITY-BASED SERVICES (HCBS) FINAL RULE COMPLIANCE

- Jim Knight, Deputy Director, Department of Developmental Services
- Christopher Odneal, Staff Finance Budget Analyst, Department of Finance
- Ryan Anderson, Principal Fiscal and Policy Analyst, Legislative Analyst's Office

ISSUE 5. IMPLEMENTATION REVIEW AND OVERSIGHT – COMPLIANCE WITH SERVICE COORDINATOR CASELOAD RATIOS, SELF-DETERMINATION PROGRAM IMPLEMENTATION, AND SOCIAL RECREATION AND CAMP SERVICES RESTORATION

- Jim Knight, Deputy Director, Department of Developmental Services
- Ernie Cruz, Deputy Director, Department of Developmental Services
- Christopher Odneal, Staff Finance Budget Analyst, Department of Finance
- Ryan Anderson, Principal Fiscal and Policy Analyst, Legislative Analyst's Office

ISSUE 6. GOVERNOR'S PROPOSAL – SAFETY NET PLAN AND GOVERNOR'S BUDGET INVESTMENTS

- Carla Castaneda, Chief Deputy Director, Department of Developmental Services
- Christopher Odneal, Staff Finance Budget Analyst, Department of Finance
- Ryan Anderson, Principal Fiscal and Policy Analyst, Legislative Analyst's Office

ISSUE 7. GOVERNOR'S PROPOSAL – BUDGET CHANGE PROPOSAL (BCP) FOR AUTISM SERVICES BRANCH

- Dr. Lauren Libero, Autism Specialist, Department of Developmental Services
- Christopher Odneal, Staff Finance Budget Analyst, Department of Finance
- Ryan Anderson, Principal Fiscal and Policy Analyst, Legislative Analyst's Office

There are no panels for the Non-Presentation Items on this agenda.

Public Comment will be taken after the completion of all panels and any discussion from the Members of the Subcommittee.

ITEMS TO BE HEARD

4300 DEPARTMENT OF DEVELOPMENTAL SERVICES (DDS)

ISSUE 1. IMPLEMENTATION REVIEW AND OVERSIGHT – EQUITY GOALS AND STRATEGIES TO REDUCE DISPROPORTIONALITIES IN THE DDS SYSTEM
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This issue includes an introduction to the Department of Developmental Services (DDS), a DDS budget overview, and then coverage of the subject for this issue, including related, specific proposals being made in the Governor's proposed budget for the 2023-24 state fiscal year and on-going, starting July 1, 2023.

The questions for the panelists for this issue are:

- What are the equity issues in the system and what have been the trends?
- What are the root causes of the racial and ethnic disparities observed in the system?
- What strategies should the state consider to address disparities in the purchase of services and create more equitable and better access for all families served in the developmental services system?

PANELISTS

1. Nancy Bargmann, Director, Department of Developmental Services
2. Leinani Walter, Chief Equity Officer, Department of Developmental Services
3. Grace Huerta, Mother, President/Co-Founder of Exceptional Family Center in Kern County, and Vice-President of The Arc of California
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BRIEF DEPARTMENT OVERVIEW

Department Purpose and Mission. The Department of Developmental Services (DDS) is responsible for administering the Lanterman Developmental Disabilities Services Act (Lanterman Act). The Lanterman Act provides for the coordination and provision of services and supports to enable people with intellectual and developmental disabilities to lead more independent, productive, and integrated lives. Additionally, the Early Start Program provides services to infants and toddlers at risk of having a developmental disability. DDS carries out its responsibilities through contracts with 21 community-based, non-profit corporations known as regional centers (RCs), as well as through state-operated homes and facilities. RCs coordinate and pay for the direct services provided to “consumers” (the term used in statute). Services are delivered by a large network of private for-profit and nonprofit providers. In addition to state General Fund and some smaller funding sources, these services are purchased in part through federal funding obtained through the Medicaid HCBS waiver.

Lanterman Act Lays Foundation for “Statutory Entitlement.” California’s Lanterman Developmental Disabilities Services Act (Lanterman Act) originally was passed in 1969 and substantially revised in 1977. It amounts to a statutory entitlement to services and supports for individuals ages three and older who have a qualifying developmental disability. Qualifying disabilities include autism, epilepsy, cerebral palsy, intellectual disabilities, and other conditions closely related to intellectual disabilities that require similar treatment, such as traumatic brain injuries. To qualify, an individual must have a disability that is substantial, expected to continue indefinitely, and which began before the age of 18. There are no income-related eligibility criteria.

California Early Intervention Services Act Ensures Services for Eligible Infants and Toddlers. DDS also provides services through its Early Start program to any infant or toddler under the age of three with a qualifying developmental delay or who are at risk of developmental disability. There are no income-related eligibility criteria. As of December 2022, DDS serves about 50,000 infants and toddlers in the Early Start program. As of December 2022, DDS serves approximately 2,900 children ages three and four who are provisionally eligible.

Caseload. The number of individuals served by regional centers (consumers) is expected to be 400,485 in the current year and increase to 420,927 in 2023-24. In addition, 312 individuals are projected to be served in state-operated facilities as of July 1, 2023.

Caseloads	FY 2022-23	FY 2023-24	Difference
State Operated Facilities	322	312	(10)
Regional Centers*	400,485	420,927	20,442
Departmental Positions			
State Operated Facilities	1,955.3	1,947.8	(7.5)
Headquarters	609.0	630.0	21.0

*Does not include children who meet provisional eligibility.

BUDGET OVERVIEW FOR DDS

The following is a high-level chart from DDS showing fund sources and differences from current year to the proposed Governor's Budget for 2023-24.

(Dollars in Thousands)

	FY 2022-23	FY 2023-24	Difference
Community Services Program			
Regional Centers	\$12,072,119	\$13,654,506	\$1,582,387
Total, Community Services	\$12,072,119	\$13,654,506	\$1,582,387
General Fund	\$6,771,147	\$8,189,476	\$1,418,329
Program Development Fund	\$0	\$434	\$434
Developmental Disabilities Services Account	\$150	\$150	\$0
Federal Trust Fund	\$56,501	\$54,058	(\$2,443)
Reimbursements	\$4,399,361	\$4,744,836	\$345,475
Mental Health Services Fund	\$740	\$740	\$0
HCBS ARPA	\$468,376	\$475,794	\$7,418
HCBS ARPA Reimbursements	\$375,844	\$189,018	(\$186,826)
State Operated Facilities Program			
Personal Services	\$271,084	\$271,030	(\$54)
Operating Expense & Equipment	\$55,597	\$69,764	\$14,167
Total, State Operated Facilities	\$326,681	\$340,794	\$14,113
General Fund	\$288,910	\$306,632	\$17,722
Lottery Education Fund	\$130	\$130	\$0
Reimbursements	\$37,641	\$34,032	(\$3,609)
Headquarters Support			
Personal Services	\$108,549	\$114,592	\$6,043
Operating Expense & Equipment	\$47,673	\$41,059	(\$6,614)
Total, Headquarters Support	\$156,222	\$155,651	(\$571)
General Fund	\$96,953	\$97,491	\$538
Federal Trust Fund	\$3,391	\$2,863	(\$528)
Program Development Fund	\$175	\$425	\$250
Reimbursements	\$47,942	\$49,979	\$2,037
Mental Health Services Fund	\$511	\$511	\$0
HCBS ARPA	\$5,800	\$3,750	(\$2,050)
HCBS ARPA Reimbursements	\$1,450	\$632	(\$818)
Total, All Programs	\$12,555,022	\$14,151,451	\$1,596,429
Total Funding			
General Fund	\$7,157,010	\$8,593,599	\$1,436,589
Federal Trust Fund	\$59,892	\$56,921	(\$2,971)
Lottery Education Fund	\$130	\$130	\$0
Program Development Fund	\$175	\$859	\$684
Developmental Disabilities Services Account	\$150	\$150	\$0
Reimbursements	\$4,484,944	\$4,828,847	\$343,903
Mental Health Services Fund	\$1,251	\$1,251	\$0
HCBS ARPA	\$474,176	\$479,544	\$5,368
HCBS ARPA Reimbursements	\$377,294	\$189,650	(\$187,644)
Total, All Funds	\$12,555,022	\$14,150,951	\$1,595,929

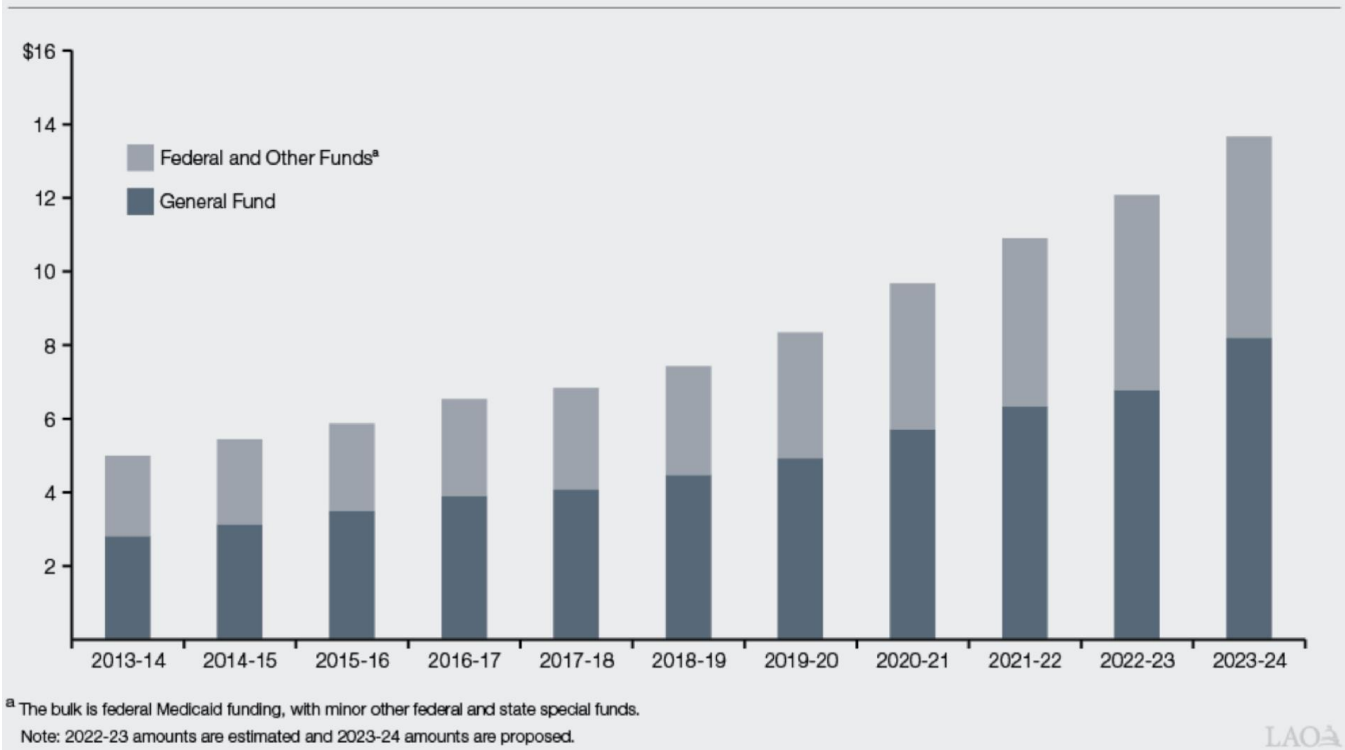
Purchase of Services (POS) Caseload. The discussion under this item after the overview is about disparities in the purchase of services for RCs. The table below displays funding changes from the current year to the proposed Governor’s Budget for 2023-24 (also called the “budget year”). The budget year includes \$10.7 billion total funds (\$6.7 billion General Fund) for purchase of services, an increase of \$1.1 billion total funds (\$732.7 million General Fund), or a 11.5 percent increase compared to the updated current year budget. The net increase is primarily due to continued caseload and utilization changes in various budget categories.

Purchase of Services Caseload (Utilization and Growth) <i>(Dollars in Thousands)</i>			
	FY 2022-23	FY 2023-24	Difference
Community Care Facilities	\$2,755,164	\$2,882,632	\$127,468
Medical Facilities	\$40,381	\$52,494	\$12,113
Day Programs	\$1,429,208	\$1,457,383	\$28,175
Habilitation Services	\$133,401	\$139,084	\$5,683
<i>Work Activity Program</i>	\$15,552	\$11,991	(\$3,561)
<i>Supported Employment Program – Group</i>	\$74,911	\$74,031	(\$880)
<i>Supported Employment Program – Individual</i>	\$42,938	\$53,062	\$10,124
Transportation	\$424,100	\$596,572	\$172,472
Support Services	\$2,480,167	\$2,744,836	\$264,669
In-Home Respite	\$1,254,112	\$1,531,812	\$277,700
Out of Home Respite	\$47,356	\$48,438	\$1,082
Health Care	\$224,522	\$269,784	\$45,262
Miscellaneous Services	\$772,794	\$936,120	\$163,326
Intermediate Care Facility-Developmentally Disabled			
Quality Assurance Fees	\$8,879	\$8,879	\$0
Total POS – Caseload	\$9,570,084	10,668,034	\$1,097,950

Proposed Budget Reflects Significant Growth. The Governor’s Budget proposal includes \$13.6 billion total funds in 2023-24, up \$1.6 billion (13 percent) over the revised 2022-23 level (\$12.1 billion). Of the proposed 2023-24 total, \$8.2 billion is from the General Fund, up \$1.4 billion (21 percent) over the revised 2022-23 level (\$6.7 billion General Fund). This significant year-over-year growth in DDS spending follows the spending growth trend over the past ten years, as shown in the figure below. Primary drivers of the year-over-year General Fund growth include: growth in caseload, increased utilization of services, additional costs for ramping up 2022-23 initiatives, and the expiration of a temporary 6.2 percentage point increase in federal Medicaid funding. The proposed budget assumes this temporary increase, which was initially tied to the federal public health emergency declaration, ends June 30, resulting in General Fund costs beginning at the start of 2023-24. However, based on recent federal actions, the expectation is that this increase will gradually wind down throughout 2023, before being phased out completely by January 2024. The Legislative Analyst’s Office (LAO) estimates that this change will increase General Fund costs by about \$20 million in 2022-23 and decrease them by about \$60 million in 2023-24 relative to the Governor’s Budget. The Administration’s caseload projection is consistent both with the LAO’s projection and with longstanding trends.

Department of Developmental Services Spending Continues to Grow Rapidly

(In Billions)

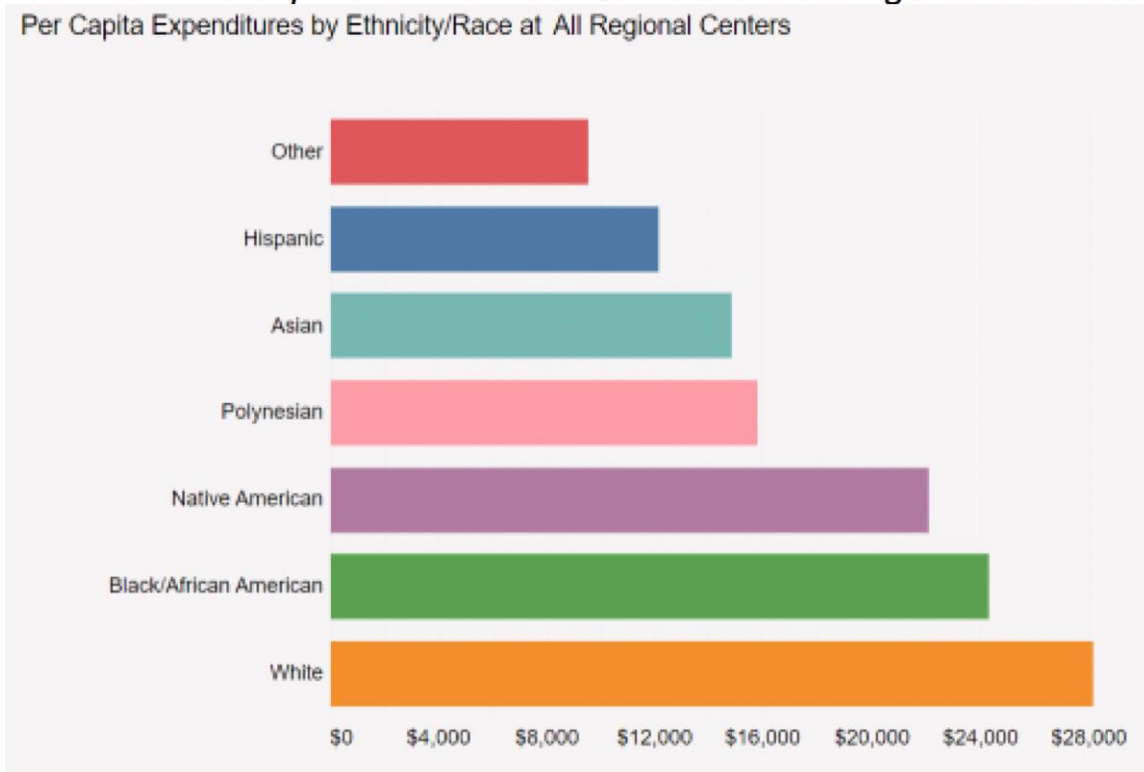


OVERSIGHT ISSUE – EQUITY AND DISPARITIES

Longstanding Interest in Disparities in the Amount of Spending on Services Among Racial/Ethnic Groups. Starting in 2011-12, state law requires all RCs to annually publish data on the amount spent on services for consumers disaggregated by the race/ethnicity of these consumers. These data consistently have shown large disparities in the average amounts spent among these groups. In particular, spending for Hispanic/Latino consumers is about half that for white consumers on average.

The following chart was provided by Disability Rights California.

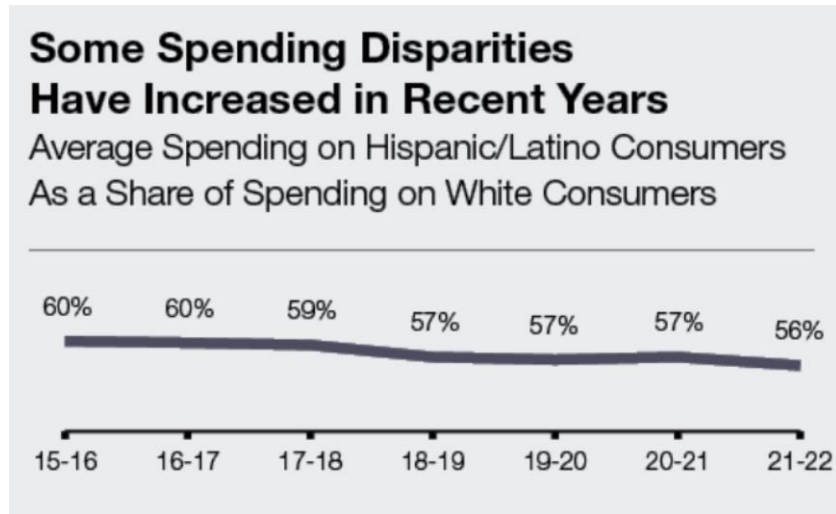
FY 2020-2021 purchase of service data for all regional centers



State Provides Ongoing Grants to Address Spending Disparities. The state has allocated \$11 million annually since 2016-17 (\$77 million to date) for “equity grants” to help close disparities in spending. As part of the 2021-22 spending plan, the state also required DDS to contract with a research entity to evaluate the effectiveness of these grants. The state contracted with a team from Georgetown University to develop that study, which is pending. Additionally, recent budgets had made investments toward equity goals, including RC training on implicit bias and funding for language access services.

In Spite of Funding for Equity Grants, Racial/Ethnic Spending Disparities Persist. Unfortunately, the available data suggest relatively little movement in terms of reducing spending disparities since equity grants were first introduced. In fact, the figure below from the

LAO shows the disparity in average spending per Hispanic/Latino consumer as a share of the average spending per white consumer has actually widened since 2015-16.



State Lacks Insight Into Drivers of These Disparities in Spending. The LAO states that one potential reason the ongoing equity grants have not yet addressed spending disparities is that they are not guided by a clear understanding of why such disparities exist. Although the Administration has pointed to some factors which explain a share of the overall disparities (most notably, that Latino/Hispanic consumers are more likely than white consumers to live with their parents and thus consume fewer residential services), to date, no attempt has been made to document comprehensively the drivers of disparities and to quantify their likely effects.

Response from DDS. The Subcommittee asked DDS about what has been achieved so far toward disparity reduction and movement toward racial equity. Are services increasing for communities of color? What is the primary measure that DDS is using to assess year over year progress across the system? DDS responses are included below.

DDS has identified increased service utilization among target populations in different racial/ethnic and language groups. DDS uses a number of metrics to monitor system utilization and access, including per-capita authorizations and expenditures for services, caseload growth, the mix of services delivered, timelines for intake and receipt of services, and various workforce measures like linguistic alignment with the served community. DDS tracked changes to the 2015-16 [statewide disparity](#) measures developed with stakeholders ([updated 2020/21](#)).

Further, DDS’s efforts to reduce disparities and increase racial/ethnic equity have been multipronged and continuously are refined as new information becomes available. Prior budget acts authorized statewide initiatives that, through the Service Access and Equity Grant Program, demonstrated measurable improvement and reducing disparities or increase access to services. Examples include the Family Resource Center Navigator program and the statewide Enhanced Caseload Ratio efforts.

While preparing for data system modernization, DDS has been investing in its analytical infrastructure. Since 2016 DDS has been building infrastructure for a data-driven culture. DDS established a Research Section to promote and establish data integrity that would inform and improve monitoring of DDS programs and services, support equity in service delivery, provide data-driven policy recommendations, and enhance data understanding among stakeholders. To improve transparency and access to information, DDS developed several [dashboard](#) displays to include areas used to oversee regional center efforts and activities. Changes in how data is used has brought focus to needed changes regarding data definitions, quality and consistency. Reliable data will improve understanding of trends and disparities, which is critical to program planning, policy recommendations and overall oversight and accountability.

DDS contracted with Georgetown University to complete a review of the current Service Access and Equity Grant program. The initial report is scheduled to be released in April 2023, with the final report by June 2023. The report provides a comprehensive analysis of the grant program, measures and matrix recommendations and how to improve the program to meet the commitment to reduce disparities and increase service access and equity.

RELATED BUDGET REQUESTS – BCP AND TBL

Related Budget Change Proposal (BCP) – Disparities within the Developmental Services System (Assembly Bill 1957). DDS requests \$1.8 million General Fund (\$2.7 million total funds) annually through fiscal year 2025-26 and three permanent positions and \$450,000 (\$360,000 General Fund) ongoing thereafter and trailer bill language to address the requirements of Chapter 314, Statutes of 2022 (AB 1957). The statutory changes require specified public reporting on Individual Program Plans and purchase-of-services for individuals with developmental disabilities.

Related Trailer Bill Language (TBL) – Technical Clean-up: HIPAA and Information Deidentification. The federal Health Insurance Portability Accountability Act (HIPAA) required the creation of national standards to protect sensitive patient health information from being disclosed without the patient’s consent or knowledge. HIPAA further mandates that consumer data be subject to a de-identification standard to protect against the disclosure of confidential information. The Administration states that deidentification is necessary when the data collection results in a small sample, which makes identifying an individual consumer more likely to occur.

Assembly Bill (AB) 1957 (Chapter 314, Statutes of 2022) requires DDS and RCs to report additional data for individuals with developmental disabilities. This data collection may help identify gaps in services for those individuals who speak a language other than English and for people of color. The Administration states that the new public reports required by AB 1957 focus on numerical data pertaining to camping, educational services, travel, social recreation, education and nonmedical therapies, including by age, ethnicity, preferred language, and residence types. Such detailed reports could result in small data sets leading to identification of individual consumers receiving these services. The bill, however, did not include provisions

clarifying that these data sets would comply with HIPAA deidentification standards. The proposed TBL from the Administration seeks to address this.

Staff Recommendation: DDS and RCs need a more coordinated effort to address disparities toward greater racial equity in the developmental services system. The Subcommittee could consider requesting options from the Administration on how to focus on root causes and a multi-year plan to achieve equity in POS across racial and ethnic communities, with concrete outcome tracking and goals. All issues here will be held open.

ISSUE 2. IMPLEMENTATION REVIEW AND OVERSIGHT – PROVIDER ADEQUACY, RATES, QUALITY INCENTIVES, AND THE PROVISION OF SERVICES**The questions for the panelists for this issue are:**

- What are the key issues with regard to provision of services?
- What are the challenges in workforce and what impact are the rate increases having?
- What is or should be the role of the quality incentives?
- What are the priority areas for the Administration and Legislature to consider to address continued quality improvement for services and supports in the system?

PANELISTS

1. Jim Knight, Deputy Director, Department of Developmental Services
2. Ruby Keefe, Self-Advocate and Person Served by Alta Regional Center
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OVERSIGHT ISSUE

The following background is based on a recent analysis provided by the LAO.

Implementing Service Provider Rate Reform. For decades, the state paid DDS service providers according to an outdated and overly complicated rate structure. In an attempt to modernize and rationalize this structure, the state commissioned a study of service provider costs. This study was published in January 2020. The 2021-22 budget initiated a five-year plan to phase in that study's rate models. The 2022-23 budget accelerated this phase-in to become a four-year plan. The Governor's Budget proposal maintains the accelerated timeline, including \$1.2 billion total funds (\$230 million General Fund) in 2023-24 for further implementation of the rate study. Full implementation of the new rate system is expected by July 1, 2024.

Implementation of the rate study has been a major statewide effort in the budget to respond to provider workforce issues, including worker shortages, inability to hire, and retention of providers for the adequate provision of Lanterman-supported services and supports for persons served.

Once Fully Implemented, Rate Reform Must Include New Quality Incentive Structure.

Following full implementation of the new rate system, statute requires that 10 percent of each service provider rate be reserved for a “quality incentive payment.” These payments are to be tied to performance metrics specific to each category of provider. These metrics and associated standards are to be determined by a workgroup of stakeholders led by DDS. Prior to the full implementation of the quality incentive payment as 10 percent of the total rate, the state began providing some smaller quality incentive payments on top of providers’ typical rates in 2022-23.

State Still Faces Major Questions About Quality Incentive Structure. Developing the incentive structure poses significant challenges. These include determining appropriate measures for each provider category and developing a reasonable plan for collecting relevant data. Although the Administration has voiced confidence in the workgroup’s ability to meet the timeline to develop the incentive structure, there have been concerns from stakeholders that meeting the timeline, which has been accelerated by one year relative to the initial rate study implementation plan, will prove difficult. In particular, there are concerns that providers will have insufficient time to familiarize themselves with new outcome measurements and performance standards before being subject to potential downward adjustments in their rates received.

In addition, many service providers have expressed concerns about the size of the proposed incentive payments. In some cases, the 10 percent reserved for incentive payments would exceed the difference between old and new provider rates, meaning providers who do not meet quality standards may see their rates adjusted to below the level they saw pre-reform. As providers do not yet know the standards they will be asked to meet, the risk of an overall downward adjustment in rates causes considerable concern.

Additional Questions About Underlying Rate Models. In addition to concerns about the quality incentive program being developed, there have been several concerns about the underlying rate models. For example, that the inputs used in some rate models may be inappropriate. This is most evident in the rate for Independent Living Services, which assumes staffing costs equivalent to Supported Living Services despite the former being a much more intensive service model. In addition, there are concerns about the lack of ongoing inflation adjustments.

BUDGET PROPOSALS RELATED TO RATES

Minimum Wage Adjustment. The Governor’s Budget includes an increase of \$46.4 million General Fund (\$78.2 million total funds) to support the projected minimum wage increase effective January 1, 2024. Senate Bill 3 (Chapter 4, Statutes of 2016) requires that, upon implementation of minimum wage increases to \$15 per hour for all employers, the minimum wage will be adjusted annually and calculated based on the United States Consumer Price Index. The minimum wage is projected to increase to \$16 per hour effective January 1, 2024 for all employers. Related trailer bill language proposed as part of the Governor’s Budget is discussed below.

Rate Model Adjustment for Mileage Rate. The Governor’s Budget includes \$6.0 million General Fund (\$10.1 million total funds), and \$20.1 million total funds in 2024-25 and on-going, to adjust service provider rates for mileage based on updates to the federal Internal Revenue Service mileage rate. These costs are added to and included in the overall effort to implement Service Provider Rate Reform.

TBL PROPOSAL RELATED TO RATES

TBL – Adjusting Rate Models to Reflect Increases in the Minimum Wage. As discussed in this issue, pursuant to Welfare and Institutions Code (WIC) Section 4519.10, DDS is phasing in implementation of rate models proposed in the 2019 Rate Study submitted to the Legislature. The rate models contain assumed costs, including employee wages, for a variety of components related to providing services. Currently, the rate models assume the minimum wage in California is \$15.00 per hour. Existing statute (e.g., WIC Section 4691.9(b), etc.) allows for provider rate increases to the extent necessary to bring employee pay into compliance with any increase in the California minimum wage. The budget also includes funding for this purpose. DDS states that this proposed trailer bill would allow for updates to all applicable rate models, and therefore provider rates, when the California minimum wage increases.

DDS states that prior to full rate model implementation, the current rate development structure and various legislative changes included a “freeze” on rate increases, resulting in a wide variation in rates for providers of the same service. Changes in minimum wage over the years has increased this inconsistency in rates. Although current statute allows for rate adjustments if necessary, to bring employee pay in compliance with the new minimum wage, not all providers have received rate adjustments because their employee wages were already above the new California minimum wage. Currently, these adjustments are processed by DDS and regional centers based on information submitted by each provider. This is an administratively intensive process for all involved.

As the rate study is implemented, there will be more transparency and consistency in service rates. Unlike today, providers of the same service in the same location will have the same rate. DDS states that this proposed trailer bill maintains that consistency by adjusting the rate models, and therefore uniformly adjusting provider rates, when the California minimum wage increases.

Staff Recommendation: The Subcommittee could consider codifying the drivers of the quality incentive program so as to focus the implementation of this feature in anticipation of the July 1, 2024 full implementation of the rate increases, with the 90/10 split taking effect at that time. This might also be premature if there are significant issues to address prior to that date, in which case, stakeholders and the Administration should be very clear about pending issues that the state can tackle in either or both the budget and policy process. All issues here will be held open.

4100 STATE COUNCIL ON DEVELOPMENTAL DISABILITIES
4300 DEPARTMENT OF DEVELOPMENTAL SERVICES**ISSUE 3. IMPLEMENTATION REVIEW AND OVERSIGHT – TRANSITION PLAN TO PHASE OUT
SUBMINIMUM WAGE****The questions for the panelists for this issue are:**

- What is the state plan for phase-out of subminimum wage and will we meet the current deadline of January 1, 2025?
- What is the employment goal for persons served in our system?
- What are the chief milestones toward achieving this or these goals?

PANELISTS

1. Aaron Carruthers, Executive Director, State Council on Developmental Disabilities
2. Ernie Cruz, Deputy Director, Department of Developmental Services
3. Maria Marquez, SCDD Councilmember, Former Sheltered-Workshop Employee, San Gabriel Pomona Regional Center
4. Ken Barnes, Former CEO of Options for All, based in San Diego
5. Melissa Gruhler, Executive Director, Far Northern Regional Center
6. Kia Cha, Principal Program Budget Analyst, Department of Finance
7. Ryan Anderson, Principal Fiscal and Policy Analyst, Legislative Analyst's Office

BUDGET ISSUE

The following background is based on a recent analysis provided by the LAO.

Employment Opportunities for DDS Consumers. According to Employment Development Department data presented on [DDS's RC Oversight Dashboard](#), the employment rate for people with developmental disabilities in California increased somewhat from 17 percent in 2016-17 to about 20 percent in 2020, the most recent year for which we have data. To the extent national data are available, they also show relatively low levels of employment, although perhaps at somewhat higher levels than California. For example, a widely cited 2013 [survey](#) estimated the national employment rate for individuals with intellectual disabilities at 34 percent, including 18 percent who were employed in a competitive integrated environment,

defined below, and 13 percent who were employed in a sheltered work program; the remainder were largely self-employed.

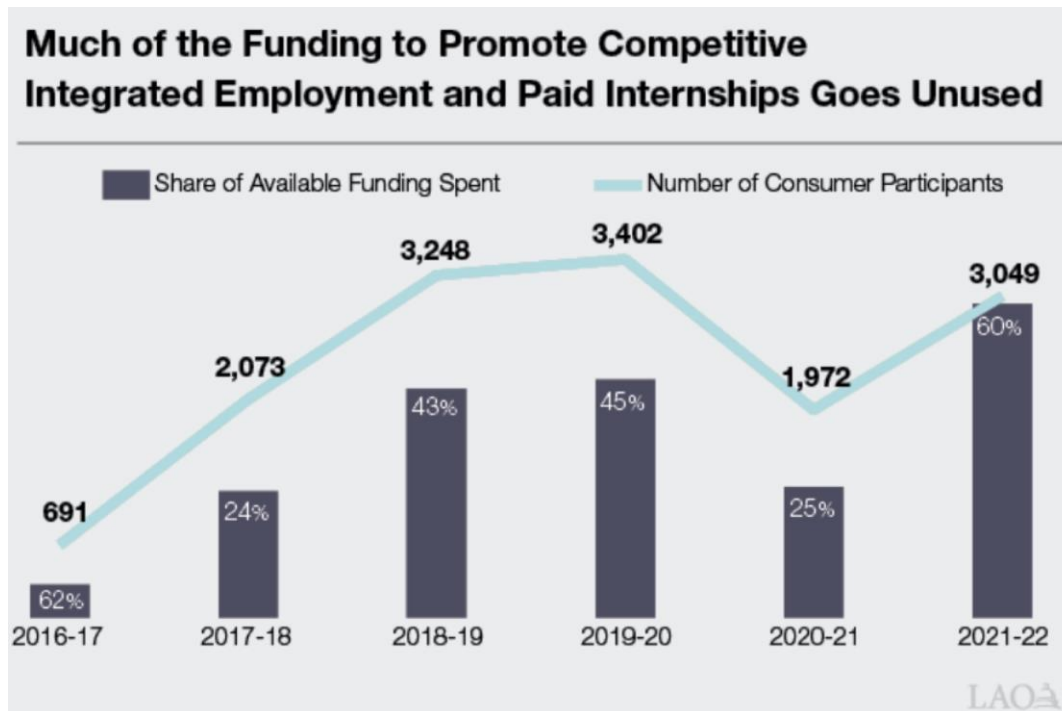
California Is an “Employment First” State. State and federal policy have shifted in recent years toward promoting competitive integrated employment (CIE) for individuals with developmental disabilities. In this context, “competitive” means market rate wages. Chapter 667 of 2013 (AB 1041, Chesbro) created California’s employment first policy, which makes CIE the highest priority for working age consumers, regardless of the severity of their disability. In 2014, Congress passed the Workforce Innovation and Opportunities Act, which promotes CIE and increases training and supports, particularly for those age 24 and younger, and generally prohibits employers from paying less than minimum wage to employees with developmental disabilities.

Chapter 339 of 2021 (SB 639, Durazo) Phases Out Subminimum Wage. Currently, about 3,800 consumers who are working earn less than minimum wage. About 3,600 of these consumers are served in work activity programs (WAPs), where they earn a wage based on their specific level of productivity. Paying subminimum wage to an individual with a disability requires a federal certificate issued under the Fair Labor Standards Act. Chapter 339 phases out the use of these certificates in California by January 1, 2025, or when the required multiyear phaseout plan led by the State Council on Developmental Disabilities specifies, whichever is later.

State Has Funded Various Programs to Encourage Employment. Chapter 3 of 2016 (AB X2 1, Thurmond) provided \$20 million General Fund annually (\$140 million cumulatively to date) to support: (1) incentive payments for supported employment providers; and, (2) consumers’ paid internships in CIE environments. The 2021-22 budget provided \$10 million one-time General Fund to DDS to support grants to organizations developing innovative strategies to increase CIE among consumers. The 2022-23 budget included \$8.3 million (\$5 million General Fund) one time to establish a pilot program for expanding employment opportunities for DDS consumers, particularly those affected by the phaseout of the subminimum wage.

The figure below provided by the LAO tracks the share of funding made available for CIE incentives and paid internships that has been actually utilized each year since 2016-17. Notably, 2021-22 marked the first year in which over half of the appropriated money was spent for these programs. This is perceived to be due to trailer bill language passed as part of the 2021-22 budget package that doubled the amounts provided per CIE incentive.

Although 2021-22 represents an all-time high in the amount of funding utilized for CIE and paid internships, this funding still served just about 3,000 individuals, a few hundred less than were served by these programs before the COVID-19 pandemic. The LAO notes that unless the state finds a way to reach additional consumers with these existing programs, it is unlikely to significantly improve the employment rate for DDS consumers. This is particularly true given the impending closure of WAPs.



First of Five Planned Reports from SCDD Released January 2023. Chapter 339 required the SCDD to develop a Transition Plan (Plan) along with four subsequent annual reports through 2027. SCDD released the first of five product on January 1, 2023, available at <https://scdd.ca.gov/>.

The Plan identifies and elaborates upon several actionable recommendations that the Administration and the Legislature should consider. The recommendations are categorized and include:

- Advance state agency collaboration for planning, accountability, and data gathering.
- Develop rate structures that equitably support the needs of all seeking vocational support services.
- Fund work incentives benefits consultation.
- Finance and build a network of job developers and job coaches.
- Mandate CIE concepts and related curriculum in educational settings.
- Identify solutions for transportation barriers and challenges for employees.
- Fund and establish a CIE Pilot to illustrate best practice job development strategies and job retention supports.
- Develop and disseminate effective and appropriate outreach, guidance, technical assistance, and educational materials that reflect lived experience, and successful case studies that inform and incentivize both employees and employers.

Response from DDS. The Subcommittee requested information about how DDS is working with SCDD toward priority goals in employment. DDS provided the following response.

DDS Employment Grants – DDS received \$14.7 million total funds in one-time funding for grants focused on new and innovative pathways to CIE for consumers of regional centers.

SCDD was involved in the stakeholder group in the development of the grant guidelines which included priority areas, and project types.

DDS Employment Pilot – DDS received \$8.3 million total funds in one-time funding to establish a three-year pilot project focused on consumers exiting subminimum wage settings and high schools and into CIE with a focus on Individualized, person-centered, practices to eliminate barriers to employment. SCDD is a stakeholder in the development of the pilot project.

SCDD and DDS participate in various coordinated efforts: DDS is on the Employment First Committee lead by SCDD and SCDD is on the DDS Employment Workgroup. Additionally, DDS and SCDD are both on the committee for the California Commission on the Employment of People with Disabilities, including the Youth Leadership Forum.

Staff Recommendation: The Subcommittee could choose to ask the Administration – including SCDD and DDS together, with CalHHS involvement – to provide a common and unified statement of goals, timelines, and approaches to achieve phaseout of subminimum wage by the timeline pursuant to state law and set targeted goals for increasing employment for persons served in the developmental services system, to more fully realize “employment first” in California. The Subcommittee could ask for the Administration to return to report collectively on this shared vision and planning at the April 26, 2023 Sub. 1 hearing. These issues will be held open.

4300 DEPARTMENT OF DEVELOPMENTAL SERVICES**ISSUE 4. IMPLEMENTATION REVIEW AND OVERSIGHT – HOME AND COMMUNITY-BASED SERVICES (HCBS) FINAL RULE COMPLIANCE****The questions for the panelists for this issue are:**

- Where is the state in regard to compliance and will we meet the deadline for full compliance on March 17, 2023?
- What happens if we are not in compliance by the deadline and what are the subsequent steps for the state?

PANELISTS

1. Jim Knight, Deputy Director, Department of Developmental Services
2. Christopher Odneal, Staff Finance Budget Analyst, Department of Finance
3. Ryan Anderson, Principal Fiscal and Policy Analyst, Legislative Analyst's Office

OVERSIGHT ISSUE

The following background is based on a recent analysis provided by the LAO.

Nearly All Types of RC-Coordinated HCBS Services Are Eligible for Federal Funding. HCBS services are considered services and supports that allow an individual to live in community-based settings, rather than in institutional settings. They include residential services, independent and supported living services, day programs, transportation, supported employment, and respite. Nearly all types of RC-coordinated services are considered HCBS and are eligible to receive federal HCBS funding, when provided to a consumer enrolled in Medi-Cal, the state's Medicaid program.

Service Provider Compliance With New Federal Rule Required to Draw Down Federal Medicaid Funding. The federal Centers for Medicare and Medicaid Services approved a new rule in 2014 that requires states to ensure that any Medicaid-funded HCBS services promote person-centered planning, individual choice, and increased independence and are provided in the most integrated setting possible. The rule, originally set to take effect in 2019, has been pushed back twice, with the first key date set for March 17, 2023, when all service providers must have adopted policies consistent with the final rule.

State Provides Grants to Assist Providers in Reaching Compliance. Chapter 3 of 2016 (AB X2 1, Thurmond) provided DDS with \$11 million General Fund annually to support grants for service providers to modify their programs and services to make them compliant with the final HCBS rule. Last year's budget also included resources for DDS of \$1.2 million (\$993,000 General Fund) in 2022-23 and \$811,000 (\$669,000 General Fund) ongoing for five (5.0)

permanent positions and one-year limited-term resources equivalent to three (3.0) positions to comply with federal requirements necessary for continued federal funding for HCBS programs. Budget bill language (BBL) was also adopted requiring a monthly check-in with staff on compliance updates. These began to occur in the late fall of 2022 and are continuing. The BBL may need to be reauthorized if continuing check-ins are desirable post the achievement of compliance.

Updates on Compliance. The figure below from the LAO is point in time, based on information as of December 29, 2022, and shows the share of providers (broken out by service category) who had compliant policies set in place as of that date. The figure also shows that almost all service providers required by DDS to have an assessment of their level of compliance with the federal HCBS requirements had done so as of December 29, 2022.

Service Type	Completed Assessment?		Have Compliant Policies?	
	Identified for Assessment	Completed Assessment (%)	Yes (%)	Not At All or Some (%)
Residential	5,006	96%	47%	53%
Day Service	1,907	98	58	42
Supported Employment	134	99	70	30
Work Activity Program	40	100	70	30
Overall	7,087	97%	50%	50%

Update from DDS. DDS provided the following information regarding compliance monitoring. In 2014, the federal Centers for Medicare and Medicaid Services (CMS) issued new federal requirements (the Final Rule) for all home and community-based services. The Final Rule is intended to enhance the quality of services provided to individuals. Over the last several years, DDS has implemented various actions to support provider compliance with HCBS federal requirements including trainings for regional centers, service providers, and individuals receiving services, development of an HCBS Advisory Group, directing providers to complete self-assessments, facilitating site assessments, and performing desk review validation.

Regional centers and DDS continue to work with providers to ensure each setting has documentation in place sufficient to show full compliance with the federal HCBS requirements. DDS is meeting with each regional center weekly and continues to host open office hours to discuss and offer guidance and support on issues related to provider compliance. In addition, DDS has issued the following guidance to regional centers:

- On November 8, 2022, DDS provided regional centers with a [letter](#) to send to providers who had not yet submitted documentation demonstrating compliance with the HCBS Final Rule. The letter included a December 5, 2022, deadline for submitting documentation.

- On January 24, 2023, DDS sent a [letter](#) to regional centers providing actions and next steps that must be taken to address non-compliant providers, including moratoriums on referrals and outreach to individuals receiving services in those settings. It was also explained that additional corrective action may include a partial withholding of regional center payments, which would be fully paid once all documentation is completed and found to be compliant. Continued failure to submit documents that meet the federal requirements may result in the termination of vendorization.

The Department of Health Care Services (DHCS) posted the [Statewide Transition Plan \(STP\)](#) for public comment on October 14, 2022 through November 13, 2022. The state will soon submit the STP for final approval from CMS.

- In November 2022, DHCS submitted a Corrective Action Plan (CAP) to CMS. A portion of that CAP includes waivers for individuals with intellectual developmental disabilities (IDD). This CAP gives providers additional time to fully implement parts of the rules that were most impacted by the public health emergency (PHE) to build their workforce and fully implement these rules in meaningful ways. Implementation of the rate increases is a big part of this, as well as many other initiatives to strengthen and develop the direct service workforce.

Compliance Data from DDS:

- As of February 10, 2023, 66 out of 6,889 providers have not yet submitted documentation demonstrating compliance with the requirements of the HCBS Final Rule. This number has decreased significantly in the past month. On January 5, 2023, this number was at 902.
- Of the remaining 6,823 sites, 5,383 (or 79%) have been determined to be in compliance.
- RCs update a daily tracker for DDS's daily review.

Staff Recommendation: The Subcommittee could request updated information to be shared with the Legislature and the LAO as it works toward the March 17, 2023 compliance date and after as the work in this area continues. A simplified display like what the LAO has provided could also be requested from the Administration on a regular basis as updates are available. All issues here will be held open.

ISSUE 5. IMPLEMENTATION REVIEW AND OVERSIGHT – COMPLIANCE WITH SERVICE COORDINATOR CASELOAD RATIOS, SELF-DETERMINATION PROGRAM IMPLEMENTATION, AND SOCIAL RECREATION AND CAMP SERVICES RESTORATION**The questions for the panelists for this issue are:**

- What can be done to make progress on meeting statutory requirements for service coordinator ratios? How do ratios and the proper provision of services tie to other issues in this agenda?
- How is the Self-Determination Program implementing? What are the key concerns and challenges moving forward?
- Are social recreation and camp services being utilized as envisioned in the effort to restore these services? What is the data telling us about how this looks per RC?

PANELISTS

1. Jim Knight, Deputy Director, Department of Developmental Services
2. Ernie Cruz, Deputy Director, Department of Developmental Services
3. Christopher Odneal, Staff Finance Budget Analyst, Department of Finance
4. Ryan Anderson, Principal Fiscal and Policy Analyst, Legislative Analyst's Office

OVERSIGHT ISSUE – COMPLIANCE WITH SERVICE COORDINATOR CASELOAD RATIOS

The following background is based on a recent analysis provided by the LAO.

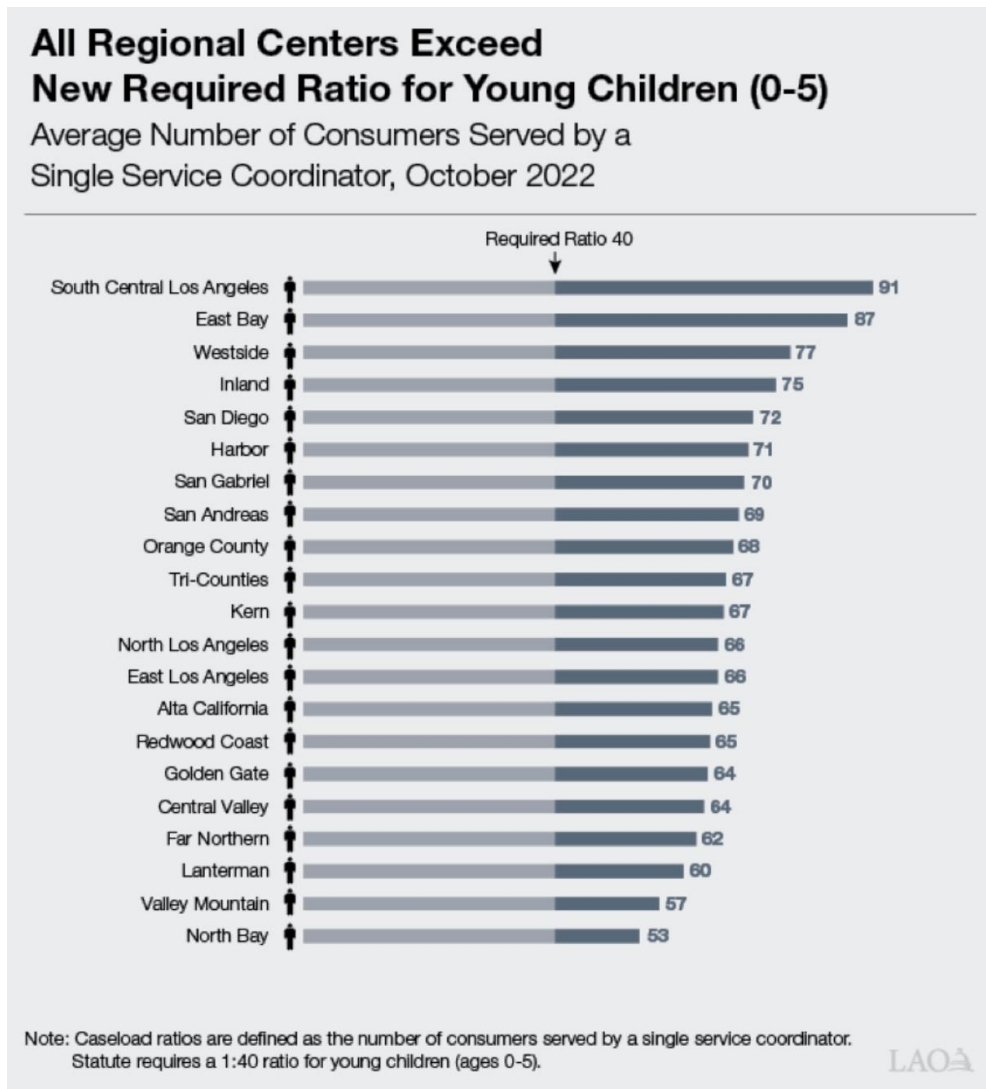
Compliance With Service Coordinator Caseload Ratios. State law stipulates caseload sizes for RCs' service coordinators. Service coordination is the core of regional center work. Each person served is paired with a service coordinator to plan to meet their needs, based on diagnosis, age, support needs, preferences, and cultural values. According to the Association of Regional Center Agencies (ARCA), "The hallmarks of successful service coordination include trusting relationships, individualized plans, and securing needed resources to make goals into realities. In recent years, excessive caseloads have made it harder for service coordinators to give needed time to those they serve."

Statute sets the following average service coordinator-to-consumer ratios for RCs:

- 1:62 for consumers enrolled in Medicaid HCBS waiver programs.
- 1:40 for children five years of age or younger.
- 1:25 for consumers who have complex needs.
- 1:66 for all others.

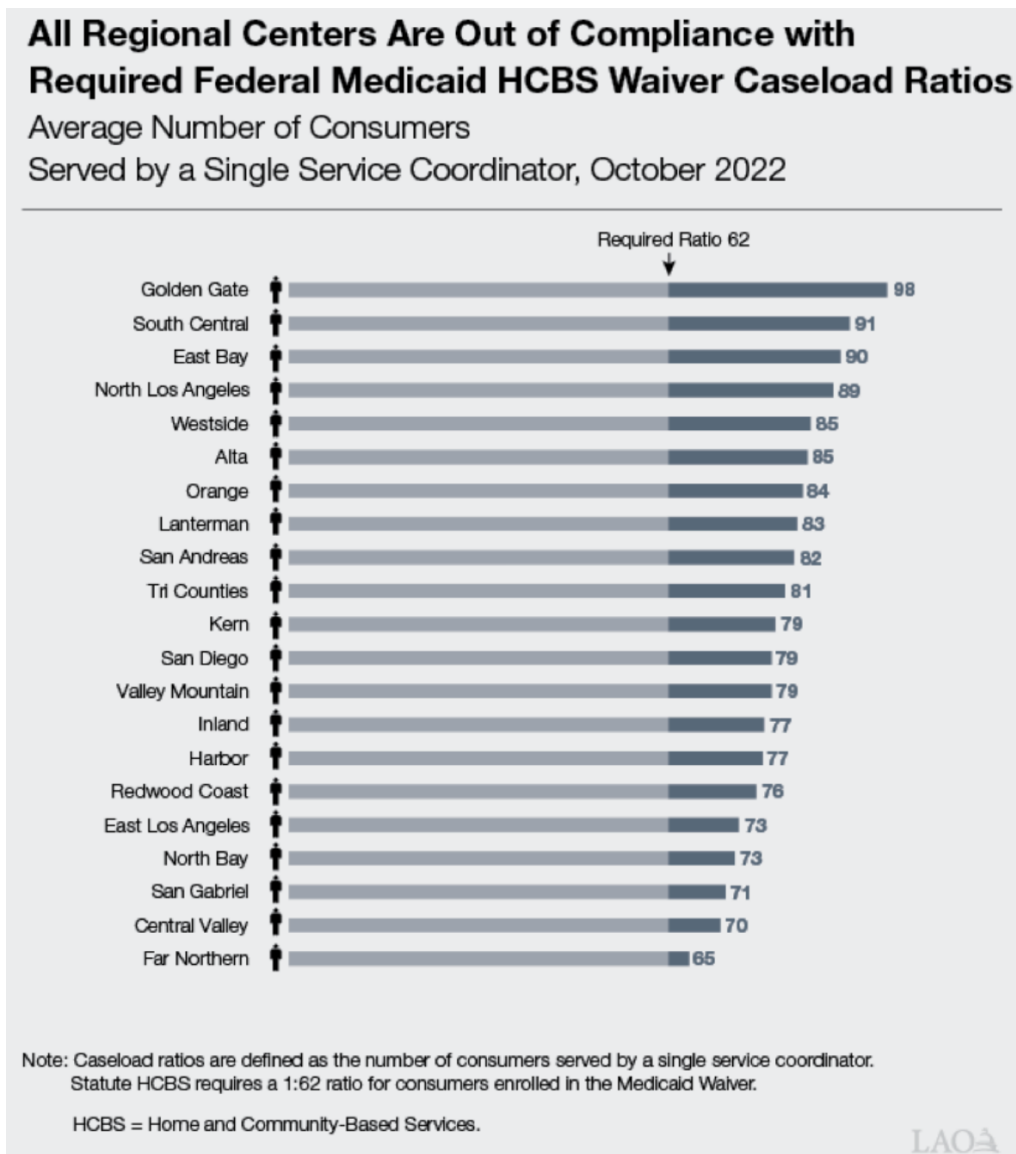
The state also still requires specific caseload ratios for consumers who recently transitioned out of a Developmental Center (DC), but these ratios were largely rendered obsolete when the state closed its last large DC in January 2020. In addition, the 2021-22 budget included \$10 million ongoing to implement service coordinator-to-consumer ratios of 1:40 for consumers who have a low level or no services purchased by RCs, on the basis that these consumers may be underserved.

All RCs Still Working to Meet New Caseload Ratios for Young Children. The figure below from the LAO shows the average caseload ratios for young children at each of the RCs. As of October 2022, no RC was meeting the new 1:40 standard, suggesting that all likely will have to hire additional service coordinators to reach compliance.



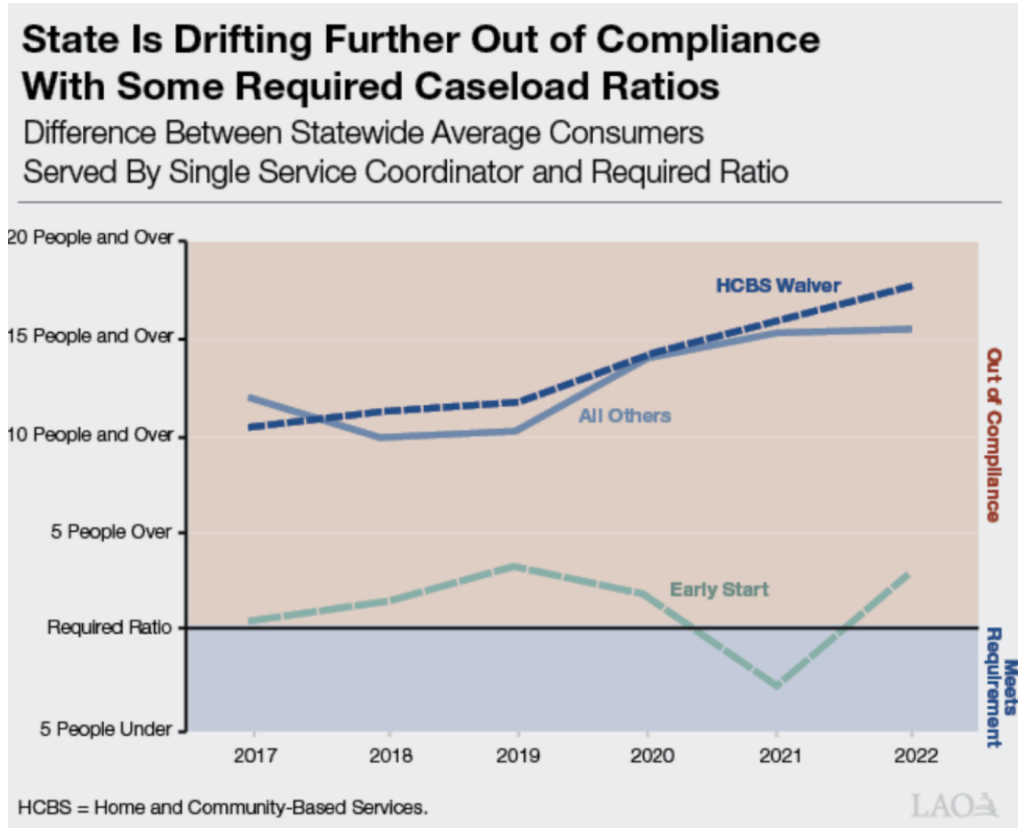
Current HCBS Caseload Ratios Risk Loss of Federal Funding. The state’s funding agreement with the federal government caps caseloads for consumers on the HCBS waiver at 62 per service coordinator, but the next figure from the LAO shows that no RC was in compliance with this ratio as of October 2022. This is not an anomaly, as HCBS caseload

ratios have been out of compliance for multiple years. Although the federal government has not taken any action against California as of yet, history suggests these out-of-compliance ratios put federal funding at risk. For example, in 1997, the federal government found that RCs had numerous quality problems. In response, the federal government froze enrollment in the HCBS waiver program until RCs implemented agreed-upon changes, which meant the state could not access federal matching funds for services provided to consumers who otherwise would have been new waiver enrollees. When the freeze was fully lifted several years later, DDS estimated the state had foregone nearly \$1 billion in federal funding. At that time, the federal government and California agreed to limit the size of caseloads as one way to avoid compromising the quality of RC services.

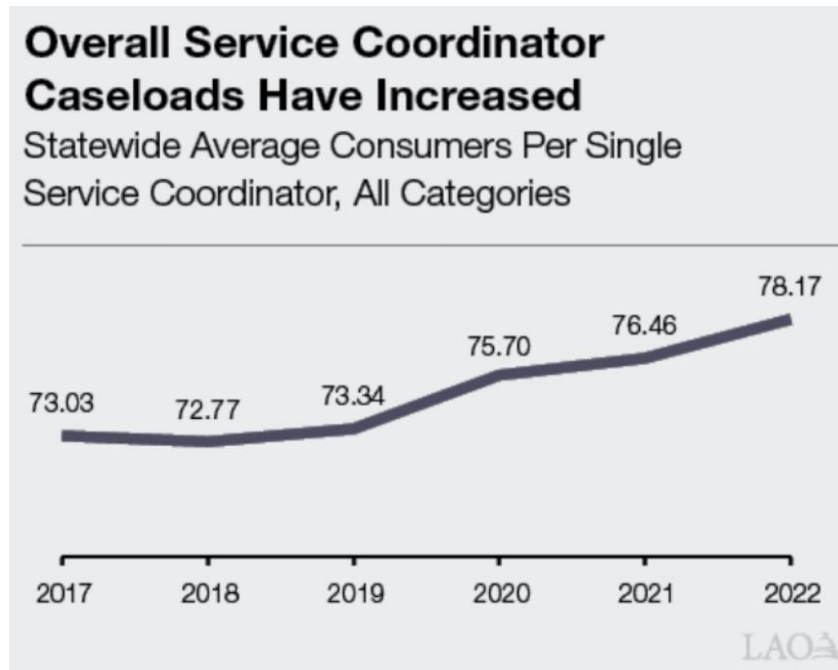


State Has Not Made Progress in Reaching Required Caseload Ratios in Recent Years. The next figure from the LAO shows the number of people above the required statutory ratios for three service categories between 2017 and 2022. These categories were selected

because they maintained a consistent definition and required ratio over that time period. Of these three categories, the state was closest to reaching compliance for Early Start, but the previously required ratio of 1:62 for this population was superseded in late 2022 by the new 1:40 required ratio for any consumer under the age of six.



LAO Notes That Increasingly Out-of-Compliance Caseload Ratios Suggest Case for Revisiting Core Staffing Formula. The state allocates funding for RC operations primarily through the core staffing formula, the inputs for which largely have not been updated since the 1990s. Regardless of their funding level, RCs must offer a competitive salary to attract service coordinator candidates. Consequently, the difference between the amount the state allocates for service coordinators and the amount RCs actually pay has grown over the past several decades. In part, RCs have made ends meet by redirecting funds awarded to them from obsolete portions of the core staffing formula, mostly those related to specific secretarial work that, in the age of computers, no longer requires full-time staff. The state also has responded to caseload challenges by providing targeted supplements, such as using a higher service coordinator salary assumption for the recent move towards smaller caseloads for young children. However, in spite of these funding augmentations, rising salary costs alongside the consistent growth in the population served have resulted in gradually increasing average caseloads for service coordinators, as the next figure from the LAO illustrates. Given the challenges related to the current formula for staffing, the LAO suggest that the Legislature may wish to consider other options for addressing this problem.



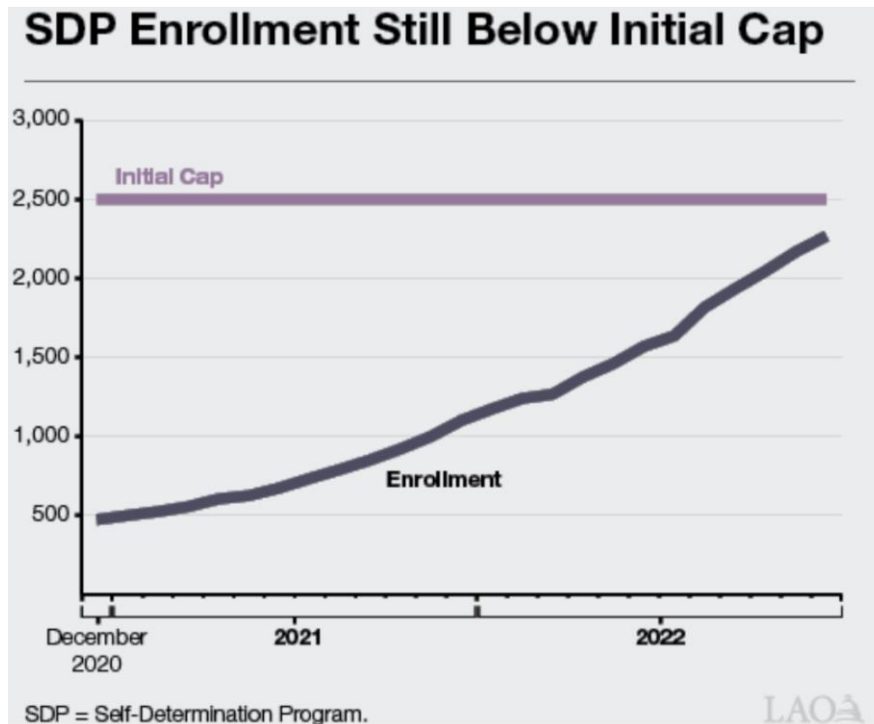
OVERSIGHT ISSUE – SELF-DETERMINATION PROGRAM

The following background is based on a recent analysis provided by the LAO.

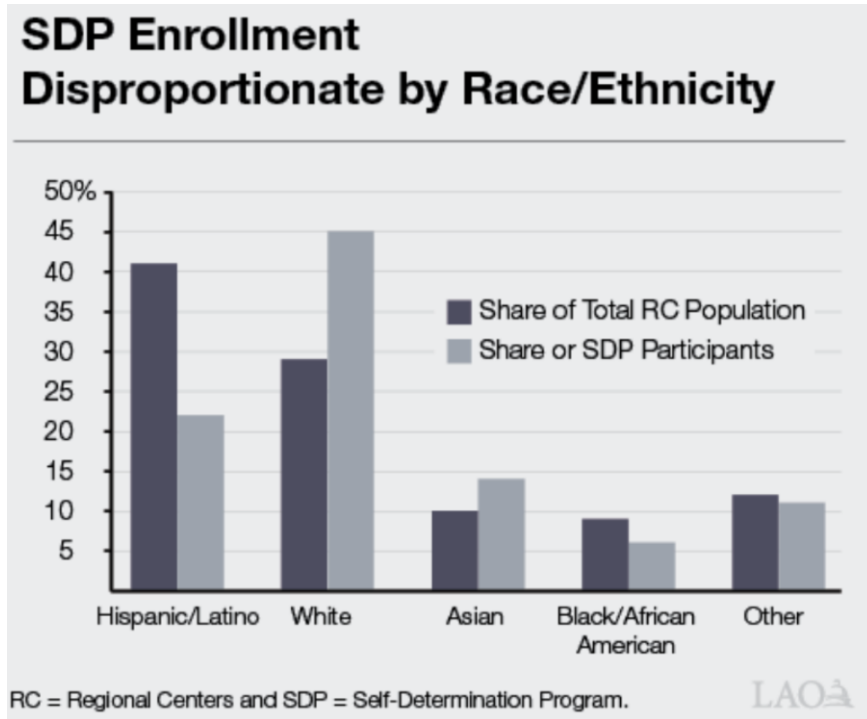
Roll Out of the Self-Determination Program (SDP). The SDP offers an alternative to traditional service coordination. Chapter 683 of 2013 (SB 468, Emmerson) created SDP to provide consumers greater control over which services they will receive and from whom. Participants are provided a fixed amount of resources (based on that participant’s purchase of service expenditures over the prior 12 months) with which to purchase the services of their choosing.

State Has Made Numerous Recent Investments to Support SDP. The 2020-21 spending plan included \$4.4 million total funds (\$3.1 million General Fund) ongoing to support administration of SDP. In addition, the 2022-23 spending plan provided \$7.2 million total funds (\$4.4 million General Fund) ongoing to cover the costs of Financial Management Service providers for SDP participants. Financial Management Services are outside firms that help consumers manage their budgets and purchase services. Under prior law, participants were required to pay for these costs from their fixed funding amount.

SDP Rollout Continues to Lag. Chapter 683 created a phase-in period for SDP, limiting enrollment during the first three years to 2,500 individuals. During these first three years (July 2018 through June 2021), DDS and RCs enrolled just 625 participants, with two RCs enrolling fewer than ten people. Per Chapter 683, the program was made available to all interested consumers as of July 2021. As the figure below from the LAO shows, enrollment has grown steadily since the program was opened to all, but has not quite reached the initial 2,500-person cap.



Racial/Ethnic Disparities Apparent in SDP Rollout. The LAO points out that enrollment in SDP does not reflect the racial/ethnic composition of the DDS consumer population. The figure below from the LAO shows that white consumers comprise a plurality of SDP participants (45 percent), despite making up only 30 percent of all DDS consumers. By comparison, Latino consumers comprise only 23 percent of SDP participants, but 40 percent of all DDS consumers. These disparities may speak to specific challenges in promoting the SDP to some communities. The LAO notes that as with disparities in spending, better understanding the drivers of disparities in SDP enrollment could help the state develop a coordinated plan for ensuring greater take-up of this program across all consumers.



OVERSIGHT ISSUE – SOCIAL RECREATION AND CAMP SERVICES RESTORATION

Implementation of Social Recreation and Camp Restoration. Effective July 1, 2009, statute was enacted that suspended regional centers’ authority to purchase social recreation services, camping services, educational services for children aged three to 17, and nonmedical therapies. Welfare and Institutions Code 4648.5 was suspended and subsequently repealed, effective June 30, 2021. There is an annual appropriation of \$51.9 million total funds included in the DDS budget for these services.

Staff Recommendation: The Subcommittee could make the following requests related to these items – (1) a request for an updated estimated on how much it would cost to modernize the core staffing formula for Regional Center operations, by a date certain, which may support progress toward service coordinator ratio compliance, (2) Regional-Center specific reporting on the enrollment of individuals in the SDP, and (3) more detailed information on the implementation of social recreation and camp services with Regional Center-specific reporting. For the first request on the core staffing formula, a more clear and detailed request for technical assistance will be necessary from interested stakeholders, and the furnishing of this will influence the timeline for an estimate to come back from the Administration. All issues here will be held open.

ISSUE 6. GOVERNOR’S PROPOSAL – SAFETY NET PLAN AND GOVERNOR’S BUDGET INVESTMENTS

The questions for the panelists for this issue are:

- What are the highest priority issues in the recently released Safety Net Plan?
- What do the trends tell us about what the future needs of the caseload might look like compared to now?
- How is the state assuring that individuals in institutionalized settings like Canyon Springs are being adequately and timely assessed for transition to the community?

PANELISTS

1. Carla Castaneda, Chief Deputy Director, Department of Developmental Services
2. Christopher Odneal, Staff Finance Budget Analyst, Department of Finance
3. Ryan Anderson, Principal Fiscal and Policy Analyst, Legislative Analyst’s Office

OVERSIGHT ISSUE

Enhancing the Safety Net for Consumers with Relatively Severe Needs. The budget contains several related proposals, including \$15.9 million (\$9.8 General Fund) one time to convert some care facilities to a higher level of intensity and \$1.6 million (\$1.1 million General Fund) ongoing to better support foster children in DDS, intended to enhance the state’s service options for consumers with relatively severe needs. These proposals are consistent with a broader effort to serve these individuals in more integrated settings following the closure of most of the state’s Developmental Centers (DCs).

Safety Net Report Released by DDS. The updated Safety Net Plan, available at <https://www.dds.ca.gov/services/crisis-safety-net-services/>, reviews the safety net continuum of care, expands the focus from crisis services to review of system changes, and highlights the supports needed for complex needs that are directly related to the Governor’s proposals. The focus areas in the Governor’s Budget include:

- Youth in foster care who have experienced severe trauma
 - RC Supports for Trauma-Informed Services for Foster Youth
- Individuals diagnosed with Autism Spectrum Disorder
 - Establish an Autism Services Branch (discussed under Issue 6 of this agenda)
- Individuals with Complex Needs
 - Further development of a “Can’t say no” option: A new complex needs residential program, STAR staffing and conversion to ICF licensure, CAST staffing and revision to team composition

Section III (pages 7-9) and Section IV (pages 15-17) provide greater detail on these focus areas tied to the Governor's Budget. The proposed budget items do not encompass all the priorities identified or emphasized in the plan by stakeholders. However, other identified areas of need overlap and connect to current DDS initiatives and are supported by recent investments to the developmental service system, like the Service Access and Equity investments and initiatives. The investment and initiatives intersections that will support the other areas identified within the DDS Safety Net continuum can be found in the Safety Net Plan (pages 18-20).

The Safety Net Plan continues to note that the plan must not be a one-time event, rather an evaluation of current needs and trends in relationship to recent and ongoing investments. Through the ongoing work of the safety net workgroup, DDS investments and initiatives are evaluated for their connection, influence and impact to supporting and enhancing the current safety net continuum.

Briefly noted in the Safety Net Plan, the 2023-24 Governor's Budget includes Trailer Bill Language associated with the Safety Net. These are discussed below.

GOVERNOR'S BUDGET REQUESTS RELATED TO SAFETY NET

1. STAR Home Staffing Adjustments and Intermediate Care Facility Licensure

The Budget includes an increase of \$9.8 million General Fund (\$15.9 million total funds) for ongoing staffing resources to convert two Stabilization Training Assistance Reintegration (STAR) Homes to intermediate care facilities (ICFs) licensed through the Department of Public Health.

2. Complex Needs Residential Program

The Budget includes an increase of \$10.5 million General Fund for start-up resources to develop three 5-person residential homes for individuals with highly complex needs. The development of these homes is intended to prevent individuals from being served at locked psychiatric facilities, institutions for mental disease, medical facilities, or facilities out-of-state. DDS estimates annual service costs at \$16.9 million General Fund in 2024-25 and \$22.3 million (\$11.2 million General Fund) ongoing beginning in 2025-26. Development of these homes would reduce reliance on 10 crisis beds activated at the Canyon Springs Community Facility through DDS's Stabilization Training Assistance Reintegration (STAR) program.

3. Extension of 10 Beds at Porterville Developmental Center (PDC)

The Budget includes an increase of \$4.9 million General Fund in one-time resources to continue funding 10 additional beds at PDC through 2023-24 to maintain compliance with the 28-day timeline to provide services to individuals deemed incompetent to stand trial (IST), under the provisions of the *Stiavetti* lawsuit. Related trailer bill language proposed as part of the Governor's Budget is discussed below.

4. Trauma-Informed Services for Foster Youth

The Budget includes an increase of \$1.1 million General Fund (\$1.6 million total funds) to support implementation and increased workload in coordination of trauma-informed care for dually-served youth in foster care.

TBL PROPOSALS RELATED TO SAFETY NET

1. TBL – Extension of 10 Crisis Beds at Canyon Springs Community Facility

The 2022 Budget Act permits admissions to the 10-bed acute crisis unit within Canyon Springs Community Facility (CSCF) through June 30, 2023. Welfare and Institutions Code (WIC) Section 7505 (4) details exception criteria whereby an individual can be admitted to a state-operated facility. Admissions to CSCF for individuals who meet the specified criteria ends on June 30, 2023. WIC Section 7505 (5) enables individuals to be committed by a court to CSCF who are currently admitted to either an acute psychiatric hospital or an acute crisis facility due to an acute crisis until June 30, 2023.

DDS states that utilizing CSCF acute crisis beds for stabilization of up to 10 individuals has provided critically needed services and has helped prevent placements into, and allowed more timely transitions out of, highly restrictive settings, including institutions for mental disease (IMDs) and other locked psychiatric settings. To continue supporting complex needs, the Governor's Budget includes resources to develop new residential homes as identified in the 2023 Safety Net Plan for individuals currently served in the acute crisis beds at CSCF. The opening of these homes will reduce reliance on CSCF to support acute crisis needs.

The proposed statutory changes would allow admissions to CSCF while the additional resources are developed and provide continuity of care for individuals, but does not specify a new date. DDS continues to identify individuals in need of crisis services. It is anticipated that the CSCF will be needed until the opening of the residential homes planned in the 2023 Safety Net Plan and proposed in the 2023 Governor's Budget. The provisions detailed in Sections 7505 (4) and 7505 (5) are critical components of the safety net continuum that will allow for those individuals who would be at imminent risk for being placed in an IMD, restrictive setting, or out of state to be served in an appropriate crisis setting.

2. TBL – Extension of 10 Beds at Porterville Developmental Center (PDC) Related to IST Waitlist Management

Porterville Developmental Center (PDC) Secure Treatment Program (STP) provides 24-hour residential services to individuals 18 years or older who have intellectual or developmental disabilities. The STP serves individuals who have been charged with a crime and have been determined by the court to meet the criteria requiring treatment in a secure area. These individuals have multiple maladaptive behaviors including sexual and/or other criminal offenses, assaults, self-abuse, property destruction, drug abuse and other socially unacceptable and antisocial behaviors.

Stiavetti v. Clendenin (originally *Stiavetti v. Ahlin*) was a case brought by the ACLU in 2015 alleging constitutional violations due to the delay in admission of Incompetent to Stand Trial (IST) defendants to State Hospitals and Developmental Centers. The court judgment requires substantive services to restore IST defendants to competency within 28 days of the transfer of responsibility to the Department of State Hospitals (DSH) and DDS. PDC is the only DDS facility that serves the IST population. To support compliance with the *Stiavetti* ruling and reduce the number of individuals residing in county jails pending admission to the PDC for competency training, the 2020 Budget Act provided temporary resources to increase capacity in the PDC STP by 20 beds, capping the STP census at 231 persons through June 30, 2023.

The temporary increase in bed capacity has afforded DDS time to complete several initiatives to reduce the pressure on PDC STP occupancy and has led to shorter admission timeframes. PDC STP has improved assessments of competency, writing of court reports on progress achieved by the individual, and offered additional competency training. DDS is requesting a partial extension of the increased bed capacity, proposing a 221-bed capacity limit through June 30, 2024, to maintain the support for individuals and return to a baseline number of admissions after the COVID-19 State of Emergency.

DDS states that while it has implemented several strategies to reduce IST admission time to PDC, these strategies are in their infancy and need time to be updated to meet the needs of those involved. DDS must maintain compliance with the timeframes for IST admissions in alignment with the *Stiavetti* ruling and monitor the frequency of referrals for admission to PDC after the COVID-19 State of Emergency. The Administration asserts that returning to a 211-bed capacity limit in 2023-24 would limit DDS's ability to continue implementation of these strategies and work with the courts, regional centers, and service providers to stabilize these models of residential and treatment services.

Staff Recommendation: In addition to other questions regarding the Safety Net for DDS, the Subcommittee could request that the Administration provide a new date for the TBL proposal to extend the 10 crisis beds at Canyon Springs Community Facility, for consideration by the Legislature. All issues here will be held open.

ISSUE 7. GOVERNOR’S PROPOSAL – BUDGET CHANGE PROPOSAL (BCP) FOR AUTISM SERVICES BRANCH

The questions for the panelists for this issue are:

- How will this investment make a difference in creating improved and facilitated access to services for individuals with autism spectrum disorder (ASD)?
- How will outcomes be measured and on what time basis?

PANELISTS

1. Dr. Lauren Libero, Autism Specialist, Department of Developmental Services
2. Christopher Odneal, Staff Finance Budget Analyst, Department of Finance
3. Ryan Anderson, Principal Fiscal and Policy Analyst, Legislative Analyst’s Office

BUDGET REQUEST – BCP

BCP – Autism Services Branch. DDS requests \$1.0 million (\$826,000 General Fund) and six (6.0) permanent positions in FY 2023-24 and ongoing to establish an Autism Services Branch within the Office of Statewide Clinical Services to support the growing population of individuals with autism spectrum disorder eligible for regional center services.

Background. The number of individuals served by RCs with a diagnosis of ASD has grown 157 percent over the last ten years, and while ASD represents 46 percent of the overall caseload, those with ASD make up the majority share (67 percent) of children and individuals ages 0-21. Since the establishment of the California RC system in 1969, intellectual disability has been the largest diagnosis among individuals served. Now, the DDS system is facing a remarkable and historic shift in the makeup of California individuals with intellectual and developmental disabilities (IDD) being served, with ASD soon to be the majority share of individuals served. As such, DDS states that it is critical that DDS and RCs develop services reflective of the support needs of individuals with ASD. Further, as nearly 80 percent of DDS’s ASD caseload is currently under the age of 21, the future of the system will face an increased demand for adult services that specifically address the support needs of people with ASD, requiring proactive planning now to ensure there is system capacity to serve youth transitioning to adulthood.

Justification for and Expected Outcomes of this Request. DDS states that the development of a dedicated Autism Services Branch will allow DDS to prepare for and respond to the growing services and support needs of a changing population. The creation of this branch will enable DDS to improve outcomes for individuals with a diagnosis of ASD by increasing access to services and options that will lead individuals to experience independent

and productive lives and supporting individual choices. With the addition of the requested staff, DDS will be able to accomplish the following:

1. Create a resource hub on the DDS website, which will house current and newly developed culturally and linguistically accessible ASD resources and updated DDS caseload reporting. This will allow families and stakeholders to access critical state-specific information on ASD.
2. Update the clinical guidelines for screening for and diagnosing ASD (not updated since 2002). Developing current evidence-based direction for practitioners, including sections that address racial, ethnic, linguistic, and sex-based disparities, will lead to more timely, reliable, and culturally appropriate diagnosis and system entry for individuals with ASD.
3. Recruit and convene an ASD-specific stakeholder group. This will allow DDS to identify unmet support needs and ensure that future initiatives are effective and person-centered.
4. Develop and deliver outreach materials and trainings to DDS staff, RCs, community-based organizations, families, and system partners. This will create opportunities to increase early identification of children with ASD and increase the capacity of system partners to deliver evidence-based practices for supporting families and individuals.
5. Respond to and track communications related to ASD. Improve capacity to respond to families and individuals regarding their rights and available supports. The ability to track incoming communications will also allow DDS to identify trends in families' and individuals' reported needs and create relevant resources on the resource hub.
6. Track and report on current data and caseload characteristics, including data and trends that intersect DDS's Service Access and Equity initiative and individuals with ASD. Improved reporting will allow for better identification of trends and projected service needs.
7. Engage in cross-department collaboration opportunities to raise awareness of issues related to autism and increase access to services across systems. For example, collaborating with the California Department of Public Health Injury and Violence Prevention branch to reduce risk of suicidality in youth with ASD. Together, these activities will help increase support for individuals with ASD and improve insight into the needs of families impacted by ASD. In turn, this will enable the proposed branch to make recommendations for improved supports for individuals with ASD and their families.

DDS currently has one staff member dedicated to ASD programming (the Autism Specialist). The Autism Specialist is currently engaged in ASD research and data tracking, giving presentations and trainings, providing expertise on legislation and policy, responding to families and RCs on issues and inquiries related to ASD, and collaborating on DDS and CalHHS initiatives. The following positions are requested to support the ASD branch:

- Two (2.0) Staff Services Manager (SSM) II positions – A manager position will provide leadership, supervision, and full management of branch projects and functions. They will provide oversight to ensure seamless and timely coordination, implementation, and completion of projects, meetings, and trainings. They will also provide legislative, policy, and practice recommendations to DDS. They will ensure timely response to inquiries and requests from families, RCs, and other system partners. They will ensure successful collaboration with stakeholders, RCs, individuals and their families. An additional Specialist position will coordinate efforts among DDS, the Department of Health Care Services, the Department of Managed Health Care, and the California Department of Public Health (CDPH).
- One (1.0) Research Data Specialist (RDS) II position – This position will support data analysis and tracking, ensure consistent and updated ASD reporting, and assist in the preparation of presentations and visuals.
- Two (2.0) Associate Governmental Program Analyst (AGPA) positions – One of the analysts will function as a family liaison, who will respond to incoming inquiries and requests for technical assistance, track trending concerns and issues, assist with follow-up on individual consumer cases requiring high levels of support. They will also support communications with RCs, service providers, community-based organizations, and hospitals. The remaining requested analyst will coordinate stakeholder meetings and materials related to ASD, facilitate stakeholder participation and accommodations, document and summarize meetings, and assist in the development and dissemination of outreach materials and communications.
- One (1.0) Behavior Specialist (BS) II position – This position (a Board-Certified Behavior Analyst) will provide consultation related to behavioral supports and challenges for individuals with ASD and provide technical assistance to DDS staff, RCs, and providers. They will also help develop new and revised programs and policies, advise on activities related to DDS and California Health and Human Services Agency initiatives (including Safety Net, AB2083/System of Care), support the development of resources and outreach materials, and develop and deliver trainings to internal staff and external partners.

Staff Recommendation: The Subcommittee may wish to seek assistance from the LAO in drafting proposed Budget Bill Language that will articulate the goals, milestones, and outcomes envisioned in this investment, with future reporting from the DDS to the Legislature on what is accomplished as a result of these requested resources and focused efforts on individuals with autism spectrum disorder who are served in the developmental services system. This issue will be held open.

NON-PRESENTATION ITEMS

There are no panels for non-presentation items.

4300 DEPARTMENT OF DEVELOPMENTAL SERVICES

ISSUE 8. ADDITIONAL GOVERNOR’S PROPOSALS FOR DDS NOT OTHERWISE AGENDIZED FOR DISCUSSION

Governor’s Budget Proposals for DDS.

Major Initiatives and Premise Items Not Otherwise Discussed in the Agenda:

1. Reduced Caseload Ratio for Children Aged 0-5

The Budget includes an increase of \$68.5 million General Fund (\$102.1 million total funds) to reflect updated caseload estimates and a revised methodology to support reduced caseload ratios of 1:40 for children ages 0-5.

2. Fairview Warm Shutdown

The Budget includes an increase of \$11.3 million General Fund for an additional year of funding to support the warm shutdown of Fairview Developmental Center. Fairview Developmental Center (FDC) officially opened on January 5, 1959, under the name of Fairview State Hospital, located in Costa Mesa, Orange County, California. FDC is now in warm-shutdown until a site assessment is completed to inform the disposition of the property. The site assessment has been delayed because of campus activities supporting the state’s COVID-19 response. The warm shut-down expenditures include personal services and operating expenses and equipment (OE&E) for 52 staff.

3. Early Start – Part C to B Transitions, Preschool Grants

The Budget includes a decrease of \$10 million General Fund in 2022-23 and 2023-24 reflecting the delayed implementation of the preschool grant initiative until fiscal year 2024-25.

4. Elimination of Annual Family Program Fee and Family Cost Participation

Pursuant to Chapter 49, Statutes of 2022 (SB 188) the Family Cost Participation Program (FCPP) and the Annual Family Fee Program (AFPF) were statutorily suspended for Fiscal Year 2022-23 in response to the COVID-19 pandemic. Additionally, statute required DDS to submit to the Legislature on or before January 10, 2023 a plan to revise the FCPP and the AFPF considering changes that include, but are not limited to, those that promote administrative efficiency and program compliance and are developed with input from stakeholders. DDS states that it aims to consolidate and streamline the process for collecting fees, so they are more equitable across varying family incomes and administratively efficient. DDS states that it will continue discussions with stakeholders to

further develop this plan and identify any necessary statutory or fiscal changes as part of the 2023-24 May Revision process.

Budget Change Proposals (BCPs) Not Otherwise Discussed in the Agenda:

1. BCP – Enhancements to Risk Management Data Collection and Tracking

DDS requests \$839,000 (\$671,000 General Fund) in fiscal year 2023-24 and ongoing and six (6.0) positions to enhance data collection, review, tracking, oversight, and response to special incident reports, high-risk incidents, and trends. The positions also will provide training and technical assistance to regional centers in their oversight and review of special incident data.

2. BCP – Information Security Office Support

DDS requests \$895,000 (\$716,000 General Fund) and five (5.0) permanent positions to support federal and state information technology risk and compliance requirements and the maintenance and operation of the Department’s security system infrastructure to support the increasingly complex technology and data needs of Department programs.

3. BCP – Protective Proceedings (AB 1663)

DDS requests \$1.5 million (\$1.2 million General Fund) in fiscal year 2023-24 and 2024-25 and six (6.0) permanent positions, and \$1.2 million (\$1.0 million General Fund) beginning in 2025-26 and ongoing, to address the requirements of Chapter 894, Statutes of 2022 (AB 1663), which revises various procedures in the conservatorship process.

4. BCP – Uniform Fiscal System Modernization (UFSM) and the Consumer Electronic Records Management System (CERMS) Project Planning

DDS requests an increase of \$12.2 million General Fund (\$12.7 million total funds) for continued project planning efforts supporting the UFSM and the CERMS projects. This request includes one-year limited-term resources equivalent to 17 departmental positions and two positions per regional center in 2023-24 to support continued planning efforts for the Uniform Fiscal System Modernization and Consumer Electronic Records Management System projects. The requested resources will allow DDS to move through the state’s required California Department of Technology Project Approval Lifecycle Stages 2 and 3 processes.

5. BCP – Electronic Visit Verification Phase II

DDS requests funding of \$2.5 million (\$832K General Fund) in 2023-24 for contract services and 3.0 permanent position resources. This request is to ensure the Electronic Visit Verification Phase II Project’s continued progress towards maintenance, operation, and management of an EVV Solution for California required by the federal 21st Century Cures Act.

Staff Recommendation: These issues will be held open.

5160 DEPARTMENT OF REHABILITATION (DOR)

ISSUE 9: DOR BUDGET REVIEW AND PROGRAM UPDATE

BRIEF DEPARTMENT OVERVIEW

The Department of Rehabilitation (DOR) works in partnership with consumers and other stakeholders to provide direct services and advocacy resulting in employment, independent living, and equality for individuals with disabilities. DOR provides services to over 130,000 Californians with disabilities annually to obtain, retain, and advance in competitive employment in integrated settings, and to maximize equality and the ability to live independently in communities of their choice.

DOR's 2023-24 proposed budget consists of \$501.5 million (\$82.2 million General Fund) to fund programs related to vocational rehabilitation (VR), independent living, assistive technology (AT), and traumatic brain injury (TBI). \$407.8 million or 81 percent of DOR's budget is Federal Fund. VR services are funded with 78.7 percent federal dollars and 21.3 percent matching funds, part of which are provided by General Fund and part by public agencies through DOR's cooperative program agreements. Federal law requires DOR to set aside no less than 15 percent of the federal VR grant to provide pre-employment transition services (also known as Student Services) to students with disabilities ages 16 – 21.

When DOR does not have sufficient VR grant funds to serve all applicants who are deemed eligible for VR services, the federal government requires DOR to implement an Order of Selection process, under which the department must serve eligible individuals with the most significant disabilities (Priority Category One) first, followed by eligible individuals with significant disabilities (Priority Category Two), and then all other eligible individuals with disabilities (Priority Category Three). As of November 2020, DOR serves eligible individuals in all priority categories.

DOR's Independent Living Program provides support to 28 independent living centers throughout California in collaboration with the State Independent Living Council. The Independent Living network in California is supported by DOR and advocates for the leadership, empowerment, independence, and productivity of individuals with disabilities. DOR received \$10 million General Fund investment through June 30, 2025, for the Community Living Fund Program, a program that advances the Master Plan on Aging by expanding institutional transition and diversion services for people of all ages and with any type of disability who do not qualify for existing programs and services.

DOR administers the California AT Program through federal Assistive Technology Act of 2004 funds and Social Security Reimbursement funds. The AT Program includes device lending and reutilization. DOR additionally administers the Older Individuals Who are Blind Program, which annually distributes more than \$3,000,000 in federal grants to support independent living services for individuals aged 55 or older. The passage of Assembly Bill 2480 (Arambula),

Chapter 532, Statutes of 2022, expands similar services to adults aged 18 to 55 who are blind and who previously were not eligible for vocational rehabilitation services.

Selected DOR Initiatives

Traumatic Brain Injury Program HCBS Expansion. DOR operates the TBI Program, which seeks to improve the delivery and quality of person-centered services available to TBI survivors, their families, and caregivers. \$1.2 million General Fund supports six TBI Program sites annually. In FY 2021-22, DOR received \$5 million in Home and Community Based Services (HCBS) Spending Plan funding to expand the TBI Program to 12 sites through FY 2023-24.

Section 28 Request: CA SWTCIE Project. DOR was awarded the federal Disability Innovation Fund - Subminimum Wage to Competitive Integrated Employment (SWTCIE) grant in the amount of \$13,943,946, which is available until September 30, 2027. The Section 28 request will provide DOR with \$2,745,000 in additional expenditure authority in the current year to begin program implementation.

The CA SWTCIE Project, which is a pilot research project, will provide a comprehensive set of interventions and supports to increase competitive integrated employment outcomes, independence, economic self-sufficiency, and inclusion for individuals with the most significant disabilities currently in, or contemplating entering, subminimum wage employment. This federal grant does not require state match.

Staff Recommendation: The budget for DOR will be held open pending the May Revision.

**PUBLIC COMMENT
(PUBLIC COMMENT WILL BE TAKEN ON ALL ITEMS)**

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