



California's protection and advocacy system  
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## **#2: Fact Sheet on California's Budget Cuts to Developmental Disability Services & Programs - July 15, 2009**

### **Behavioral Intervention Services for Regional Center and Early Start Consumers<sup>1</sup>**

These changes are included in the Budget Trailer Bill. They will be effective when the Budget is approved, unless the language is changed by the legislature.

#### **How the Law Changed**

The new law limits your regional center's ability to purchase Behavioral Intervention Services, which includes both "applied behavioral analysis" (ABA) and "intensive behavior intervention services". These laws apply to both Lanterman Act and Early Start consumers.

Under the new laws, any vendor who provides Behavioral Intervention Services must:

1. Conduct a behavioral assessment of each consumer for whom the vendor provides these services;
2. Design an intervention plan for that consumer; and

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<sup>1</sup> The changes are part of the Budget Trailer Bill AB x3 45.  
You may find the law at [http://www.leginfo.ca.gov/pub/09-10/bill/asm/ab\\_0001-0050/abx3\\_45\\_bill\\_20090628\\_amended\\_asm\\_v98.html](http://www.leginfo.ca.gov/pub/09-10/bill/asm/ab_0001-0050/abx3_45_bill_20090628_amended_asm_v98.html)

The changes in Behavioral Intervention Services can be found in Government Code, Section 95021; Welfare & Institutions Code, Section 4686.2.

3. Provide a copy of the intervention plan to the regional center for review and consideration by the planning team members.

The intervention plan must include certain components, including the service type, number of hours, and parent participation needed to achieve the goals and objectives of the plan.<sup>2</sup>

## **Parental Participation**

The new laws say that your regional center may only purchase Behavioral Intervention Services when the parent or parents participate in the intervention plan. Therefore, if you are a parent of a consumer and do not think that you will be able to meet the level of parental participation outlined in the intervention plan, let the vendor and regional center know so they can come up with an intervention plan that works for you and your family. Otherwise, the regional center may use your lack of participation as a basis for discontinuing Behavioral Intervention Services.

Parental participation can mean different things and can vary depending on your individual situation. Some examples include:

- Completion of group instruction on the basics of behavior intervention;
- Implementation of intervention strategies, according to the intervention plan;
- Data collection;
- Participation in any needed clinical meetings; or
- Purchase of suggested behavior modification materials or community involvement if a reward system is used.

Regional centers are not allowed to reimburse parents for participating in any behavioral services treatment program. However, no regional center should be able to make parents participate in a way that is not reasonable or possible. Like all services received by Lanterman Act and Early Start Consumers, Behavioral Intervention Services must be determined on an individual basis.

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<sup>2</sup> "Parent" is defined in paragraph (15) of subdivision (b) of Section 52000 of Title 17 of the California Code of Regulations. Under these regulations, parents can be people who are not the biological mother or father.

## **Other Limits on Behavior Services**

In addition, the regional center may not purchase Behavioral Intervention Services for purposes of providing respite and other types of services. Although your family may need increased respite if you have challenging or complex behaviors, respite is not the same as behavioral intervention and respite providers do not have the skills or training to implement Behavioral Intervention Services. However, there are times when your family may need specialized behavioral respite to help them put the intervention plan into practice at home. The decision as to whether a behavioral respite aide is needed should be made based on your individual needs and should not be changed by the new laws.

Finally, your regional center must discontinue your Behavioral Intervention Services when the treatment goals and objectives in your intervention plan are achieved. However, for many consumers, treatment goals and objectives may change over time. For this reason, your regional center must evaluate your intervention plan every six months to make sure that the treatment goals and objectives are updated to reflect your current circumstances and needs. Your regional center can only discontinue your Behavioral Intervention Services if those updated treatment goals and objectives do not require continued Behavioral Intervention Services.

The new laws are very specific about how Behavioral Intervention Services are defined, including requirements that such services reflect “evidence-based practices.”

These changes will take place retroactively to July 1, 2009. For consumers already receiving Behavioral Intervention Services as part of their IPP (Individual Program Plan) or IFSP (Individualized Family Service Plan), the changes will take place on August 1, 2009.

### **What Should I Do If the Regional Center Wants to Change My Services?**

If your regional center wants to change your services, it must hold an IPP or IFSP meeting.<sup>3</sup> If you do not agree with the regional center at your meeting, the regional center must give you written notice of its decision to

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<sup>3</sup> Welfare & Institutions Code, Section 4646.4(a)-(c).

change your behavior service. This notice must be given 30 days before the change begins.<sup>4</sup>

If you want to appeal the decision and continue to receive these services, you must request a fair hearing within 30 days.<sup>5</sup>

- If you request the hearing within 10 days of receiving the notice, your services will be continued while the hearing process is conducted<sup>6</sup>; and
- If you request the hearing after 10 days but still before the 30 day limit, you will receive the fair hearing but your services may be discontinued until the outcome of the hearing is known.<sup>7</sup>

The appeals procedure is slightly different for an IFSP. For example, if you and your behaviorist believe your child needs more hours of ABA, you should request a hearing.

For more information on how to appeal decisions by the regional center for both regional center or Early Start consumers, read our fact sheet, Due Process and Hearing Rights.

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<sup>4</sup> See Welfare & Institutions Code, Section 4710.

<sup>5</sup> See Welfare & Institutions Code Section 4710.5 (a)

<sup>6</sup> See Welfare & Institutions Code Section 4715

<sup>7</sup> See Welfare & Institutions Code Section 4710.5 (a)