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The New Self-Determination Program and How to Maximize it for your Regional Center Clients

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Outline

- Overview and History
- Self-Determination Statute
- Timeline
- Person-Centered Planning
- Individual Budget
- IPP
- Financial Management Services
- Spending Plan
- Questions

Traditional Model of Services for Regional Center Clients

- Client describes his needs and deficits to the service coordinator, who writes the Individual Program Plan (IPP)
- Service Coordinator determines which of the pre-existing regional center services the client qualifies for, and how much of each service the client can have
- Client can choose from a pre-approved “vendors” to access each service
- Vendors are paid based on set rates
- Ex: <https://westsiderc.org/services/>

Legal Definition of Self Determination

- “Self-Determination” means a voluntary delivery system consisting of a defined and comprehensive mix of services and supports, selected and directed by a participant through person-centered planning, in order to meet the objectives in his or her IPP.
- Welfare and Institutions Code 4685.8

Plain Language Definition of Self Determination

- Self-determination is a voluntary regional center program that provides participants with an individual budget, which they can use to purchase the services and supports they need to implement their person-centered plan (PCP) and Individual Program Plan (IPP).
- Think Outside the Box (p. 7) Health Insurance Complaint Procedure

History of the Self-Determination Program (SDP)

- Based on a 20-year old pilot project in which 200 individuals participated in a test of self-determination in five regional centers.
- In October 2013, Governor Jerry Brown signed into law Senate Bill 468, the Self Determination Law
- In October 2018, DDS randomly selects first 2,500 participants for phase-in-period
- On **June 5, 2021** SPD will be available to all eligible individuals

Five Principles of Self-Determination

- Freedom- You plan your own life and make your own decisions, just like people without disabilities are able to do.
- Authority- You decide how money is spent for your services and supports.
- Support- You pick the people and supports that help you live, work and play in your community
- Confirmation- You are the most important person when making plans for your life. You are the decision maker about your services.
- Responsibility- To make decisions in your life, to be accountable for using public money and to accept your valued role in the community.

Self-Determination Model

- Client and his circle of support create a **person-centered plan (PCP)** that explains Client's hopes and dreams, and what kind of help he needs to achieve them.
- Service coordinator develops IPP based on Client's PCP.
- Client and his service coordinator agree on his **individual budget**.
- Client purchases the service and supports that will best meet his needs.
- Client's **Financial Management Service (FMS)** makes payments on his behalf.

Welfare and Institutions Code Section 4685.8(a)

- Establishes the Self-Determination Program and phase in period
- Self-Determination Program "shall be available in every regional center...to provide participants...within an individual budget, increased flexibility and choice, and great control over decisions, resources, and needed and desired services and supports to implement their IPP.

Welfare and Institutions Code Section 4685.8(c)- Definitions

- (1) "**Financial Management Services**" (FMS)- "means services or functions that assist the participant to manage and direct the distribution of funds contained in the individual budget, and ensure that the participant has the financial resources to implement their IPP throughout the year."
- "These may include bill paying services and activities that facilitate the employment of service and support workers by the participant, including, but not limited to, fiscal accounting, tax withholding, compliance with relevant state and federal employment laws, assisting the participant in verifying provider qualifications, including criminal background checks, and expenditure reports."

Welfare and Institutions Code Section 4685.8(c)- Definitions, continued

- (2) "**Independent Facilitator**" (IF)- "means a person, selected and directed by the participant, who is not otherwise providing services to the participant pursuant to their IPP and is not employed by a person providing services to the participant."
- "The independent facilitator may assist the participant in making informed decisions about the individual budget, and in locating, accessing, and coordinating services and supports consistent with the participant's IPP. The independent facilitator is available to assist in identifying immediate and long-term needs, developing options to meet those needs, leading, participating, or advocating on behalf of the participant in the person-centered planning process and development of the IPP, and obtaining identified services and supports."
- "The cost of the independent facilitator, if any, shall be paid by the participant out of the participant's individual budget."- Expectation- Right now DDS has allocated \$2,500 towards the first PCP process.
- "An independent facilitator shall receive training in the principles of self-determination, the person-centered planning process, and the other responsibilities described in this paragraph at the independent facilitator's own cost."

Welfare and Institutions Code Section 4685.8(c)- Definitions, continued

- (3) “**Individual budget**” means the amount of regional center purchase of service funding available to the participant for the purchase of services and supports necessary to implement the IPP. The individual budget shall be determined using a fair, equitable, and transparent methodology.
- (4) “**IPP**” means individual program plan, as described in Section 4646.
- (5) “**Participant**”- means an individual, and when appropriate, the participant’s parents, legal guardian or conservator, or authorized representative, who has been deemed eligible for, and has voluntarily agreed to participate in, the Self-Determination Program.

Welfare and Institutions Code Section 4685.8(c)- Definitions, continued

- (6) “Self-determination”- means a voluntary delivery system consisting of a defined and comprehensive mix of services and supports, selected and directed by a participant through person-centered planning, in order to meet the objectives in their IPP. Self-determination services and supports are designed to assist the participant to achieve personally defined outcomes in community settings that promote inclusion.

Welfare and Institutions Code Section 4685.8(d)- Participation in the Self-Determination Program

- Voluntary
- May leave at any time, but can’t come back for 12 months (4685.8(h) and (i))
- Available to any regional center consumer that is receiving a service and does not live in a licensed long-term health care facility
- Participant must receive an orientation prior to enrollment
- Must utilize generic services and supports first
- Must only purchase services and supports necessary to implement the IPP
- Must stay within budget
- Must use an FMS vendored by a regional center (**only** required vendored service)
- May use an independent facilitator of their own choosing. If they do not elect to use an independent facilitator

Welfare and Institutions Code Section 4685.8(g)- The role of the independent facilitator

- Selected and directed by the individual
- Can’t provide other services to the participant that are in his/her IPP or work for an employer that does
- Assist the participant in:
 - Making informed decisions about the budget
 - Locating, accessing, and coordinating services and supports
 - Identifying immediate and long-term needs
 - Developing options to meet those needs
- Leading, participating, or advocating on behalf of the participant in the person-centered planning process and development of the IPP
- Obtaining identified services and supports
- Paid by the participant out of his or her individual budget
- Independent facilitators shall receive training in the principles of self-determination, person-centered planning, and the responsibilities described above at their own cost

Welfare and Institutions Code Section 4685.8- Person-Centered Planning

- (k) The IPP team shall utilize the **person-centered planning** process to develop the IPP for a participant. The IPP shall detail the goals and objectives of the participant that are to be met through the purchase of participant-selected services and supports. The IPP team shall determine the individual budget to ensure the budget assists the participant to achieve the outcomes set forth in the participant’s IPP and ensures their health and safety. The completed individual budget shall be attached to the IPP.

- (l) The participant shall implement their IPP, including choosing and purchasing the services and supports allowable under this section necessary to implement the plan. A participant is exempt from the cost control restrictions regarding the purchases of services and supports pursuant to Section 4648.5. A regional center shall not prohibit the purchase of any service or support that is otherwise allowable under this section.

Welfare and Institutions Code Section 4685.8(n)- Determining Individual Budget

- The individual budget is the total amount of the most recently available 12 months of purchase of service expenditures for the participant.
- An adjustment may be made to the amount if **both** of the following occur:
- The IPP team determines that an adjustment to this amount is necessary due to a **change in the participant's circumstances, needs, or resources** that would result in an increase or decrease in purchase of service expenditures, or the IPP team identifies prior needs or resources that were unaddressed in the IPP, which would have **resulted in an increase or decrease in purchase of service expenditures**.
- And the regional center certifies on the individual budget document that regional center expenditures for the individual budget, including any adjustment, would have occurred regardless of the individual's participation in the Self-Determination Program.
- Must pay for cost of independent facilitator and cost of FMS out of budget.

Welfare and Institutions Code Section 4685.8(n)- Determining Individual Budget for a New Regional Center Client

- The IPP team shall identify the services and supports needed by the participant and available resources,
- (ii) The regional center shall calculate the cost of providing the services and supports to be purchased by the regional center by using the average cost paid by the regional center for each service or support unless the regional center determines that the consumer has a unique need that requires a higher or lower cost.
- The regional center shall certify on the individual budget document that this amount would have been expended using regional center purchase of service funds regardless of the individual's participation in the Self-Determination Program.

Welfare and Institutions Code Section 4685.8(o)- Transferring funds between categories

- Annually, participants may transfer up to 10 percent of the funds originally distributed to any budget category to another budget category or categories.
- Transfers in excess of 10 percent of the original amount allocated to any budget category may be made upon the approval of the regional center or the participant's IPP team.
- (p) Consistent with the implementation date of the IPP, the IPP team shall annually ascertain from the participant whether there are any circumstances or needs that require a change to the annual individual budget. Based on that review, the IPP team shall calculate a new individual budget.

Welfare and Institutions Code Section 4685.8- FMS

- (u) FMS providers must provide monthly budget updates to the regional center and participant so they can track spending.
- (v) Only FMS providers need to be vendored. Everyone else is exempt from the vendorization requirements.

Welfare and Institutions Code Section 4685.8(w)- Criminal background checks

- Individuals who provide direct personal care services to a participant.
- Other providers requested by a participant or the participant's financial management service.
- Cost of background check can't come out of budget

Timeline to Support a Client into the SDP

- Client attends orientation
- Client decides to hire an IF, or decide to be own IF (unpaid)
- Person-centered planning process
- IPP meeting & share person-centered plan
- Regional center produces draft individual budget
- Budget negotiations
- Certify budget
- Select FMS provider
- Create spending plan with FMS input
- Submit spending plan to regional center
- Regional center approves spending plan
- Regional center releases funds to FMS

Purpose of Person-Centered Planning

- Listening to people with developmental disabilities about things like: where they want to live; how they want to spend time each day; who they want to spend time with; and their hopes and dreams for the future.
- Helping people get the services they need to: lead the lifestyle they prefer; be more independent; and be active members of the community

Person-Centered Planning

- An approach to identify important and preferred future possibilities for a person and coordinate action that moves toward that future
- Supporting people in their freedom of choice
- Focused on the person's strengths, interests, talents, preferences, skills, hopes, dreams, desires
- Help the person dream big
- Amplify the person's voice – take your perspective out of it
- Not one method in particular

Components of Person-Centered Planning

- Pre-Planning- allows the facilitator to get to know the person and his/her circle of support in order to plan and facilitate a meaningful, efficient and person-center meeting.
- Person-Centered Meeting- (aka "Party with a Purpose")- at the meeting the team listens to the person's hopes and dreams for the future and agrees to support the person along the way. The outcome of the meeting is a set of ideas and commitments that the facilitator uses to draft a written action plan.
- Plan Creation- facilitator compiles ideas and information learned in the pre-planning and the person-center meeting in a written document to communicate the person's wants for his or her life, where he or she wants to live, how he or she wants to spend time, who he or she wants to spend time with, and hopes for the future. The document describes the supports in order to receive achieve the goals and outlines the action plan to reach those goals.

Individual Budget Development

- Budget is the total amount of the last 12 months of purchase of service expenditures for the participant.
- Adjustment (up or down) may be necessary due to change in participant's circumstances, needs, or resources **or** the IPP identifies prior needs or resources that were unaddressed in the IPP, which would have resulted in an increase or decrease in expenditures ("unmet needs")

Unmet Needs

- Services, supports, resources, items that are needed in order for the participant to achieve his or her goals
- Use what is available in the traditional system and make sure utilizing all services. (WRC's can be found here: <https://westsiderc.org/services/>)
- Highlight the needs the align with the traditional system
- Position nontraditional support needs to align with existing services

Aligning goals with Traditional Services

- Adult wants to take swim lessons- community integration; personal assistance; tailored day services
- Child needs support to attend hip hop class with peers- social skills, respite hours
- Adult wants to hire graphic designer to help with her website- customized employment, personal assistant, job coach, tailored day services
- Transition-aged teen wants to take college classes- personal assistant, tailored day, community integration training
- Child wants to attend camp- Specialized Supervision/PA for ESY, social skills

Home and Community Based Services Inclusion Rule "HCBS Final Rule"

- The Final Rule prohibits states from using Medicaid dollars to pay for HCBS in settings that are not integrated into the community, including group living settings or isolated employment
- Centers for Medicare and Medicaid Services fund about 50% of regional centers' budgets
- Goes into effect for all services on March 17, 2022, but all services funded under SDP must be compliant **now**

Home and Community Based Services Inclusion Rule "HCBS Final Rule"- 5 Standards

- Integration into the community
- Individual choice
- Individual rights
- Autonomy
- Choice regarding services and providers

IPP/Budget Meetings

- Present the Person-Center Plan
- Discuss goals and supports needs
- Review 12-month payment history
- Discuss possible new/unmet needs that should be addressed in the budget
- Review of the regional center's proposed budget
- Discussion around budget and whether it meets the client's needs
- Agreement to the budget or discussion of next steps in negotiation

Rights under the Lanterman Act

- Have same rights to a Fair Hearing as under the traditional service model
- Ex: if you request a service, support, or individual budget, regional center must give a decision at IPP meeting or have an IPP meeting within 15 days.
- Regional center must send a notice of action and how to request a fair hearing within 5 days of making decision
- Can also use the 4731 Complaint Procedure (administrative complaint procedure) if the regional center has abused, withheld, or improperly or unreasonably denied any right of the consumer

Financial Management Services (FMS) Overview

- Participants must to use a vendored FMS to pay for all services through SDP.

- FMS key functions are to pay for activities, items, services, and employees; assists with hiring employees, including criminal background checks; manages the individual budget and provides a monthly accounting statement of how the client is spending their individual budget to the client and regional center to make sure they are on track; ensures all employer-related labor and tax laws are followed.
- Maximum rates established by DDS; can negotiate for lower rates

FMS Models

- Bill Payer
- Sole Employer
- Co-Employer

Bill Paymer Model (aka “Fiscal Agent Model”)

- Use when goods and services are purchases from business(es)
- Business responsible for providing items and workers
- Participant does not hire or supervise any wokers
- FMS writes checks and pays for goods and services listed in the IPP
- Maximum rates are between \$50-\$100 per month

Sole Employer Model (aka “Fiscal/Employer Agent Model”)

- Participant directly employs workers, and assumes liability for workers
- Participant gets employer tax ID (EIN) – FMS assists
- Participant has complete control of employment process and terms
- Participant holds insurance policies (workers comp, liability, health insurance) to cover workers. Sometimes the FMS offers insurance plans that client can buy into.)
- FMS assists participant to abide by all applicable laws, verifies provider qualifications and processes payroll (including taxes)
- Most responsibility and control
- Maximum rates are between \$110-150 per month

Co-Employer Model

- Participant hires workers but shares employer roles and responsibilities with FMS
- Participant hires and fires workers with input from FMS
- FMS is employer of record and assumes liability for workers
- FMS is responsible for insurances – they also set the rates participants pay from their budget to cover “payroll burden”
- Most expensive model
- Maximum rates are between \$125-165 per month

Spending Plans Overview

- Identifies the type and amount of all the needed services and supports to achieve the IPP/PCP goals and **ensure health and safety**.
- Must identify the cost of each service, activity, or item that will be purchased with SDP budget It’s ok to make an educated estimate
- Must include the cost of the FMS, independent facilitator (if applicable), and employee benefits, payroll taxes, and insurance
- Spending plan is attached to the IPP

Spending Plan Requirements

- SDP funds can only be used for services that: Have been approved by the federal Centers for Medicare and Medicaid Services (Final Rule); and, are **not** available through other funding sources (e.g., Medi-Cal, IHSS, schools, etc.)
- Each service in the spending plan falls into one of three broad budget categories: Living arrangement
Employment and community participation Health and safety.
- Participants can make adjustments and move funds from one service to another within the same category without consulting the regional center or IPP team.
- Participants can transfer up to 10% of the funds originally in one budget category to another budget category or categories without approval from the regional center or IPP team. Participants can transfer more than 10% of the funds originally in one budget category to another budget category or categories with approval/agreement from the regional center or IPP team. (WIC Section 4685.8(o))

Roll of Independent Facilitator

- Making informed decisions about the budget
- Locating, accessing, and coordinating services and supports
- Identifying immediate and long-term needs
- Developing options to meet those needs
- Leading, participating, or advocating on behalf of the participant in the person-centered planning process and development of the IPP
- Obtaining identified services and supports
- **Paid by the participant out of his or her individual budget**

Resources

- DDS Self-Determination Program Home Page: <https://www.dds.ca.gov/initiatives/sdp/>
- Westside Regional Center Self-Determination Program: <https://westsiderc.org/self-determination-program/>
- The Self-Determination Interchange: <https://disabilityvoicesunited.org/interchange/self-determination/>
- Disability Voices Untied: <https://disabilityvoicesunited.org/>
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