

The Self-Determination Program Explained

By: Melissa (Meira) Amster, Esq.

The Clubhouse

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Outline

- Overview and History
- 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).

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.

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

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
- Paid by the participant out of his or her individual budget

Independent Facilitator Assist with

- 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

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.

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.

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.

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 that 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

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.

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
- Must provide monthly budget updates to the regional center and participant so they can track spending.

FMS Models

- Bill Payer
- Sole Employer
- Co-Employer

Bill Paymer Model (aka "Fiscal Agent Model")

- Use when goods and services are purchases form 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))

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

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/>
- Amster Law Firm <http://www.amsterlawfirm.com/blog>