

**DEPARTMENT OF DEVELOPMENTAL SERVICES**

1600 NINTH STREET, Room 320, MS 3-9  
SACRAMENTO, CA 95814  
TDD 654-2054 (For the Hearing Impaired)  
(916) 654-1954



May 16, 2014

TO: REGIONAL CENTER EXECUTIVE DIRECTORS

SUBJECT: MINIMUM WAGE INCREASE

Effective July 1, 2014, the minimum wage in California will increase from \$8.00 to \$9.00 per hour. The proposed budget and accompanying proposed budget trailer bill (enclosed) assumes many vendors will either receive, or be eligible to request, a rate increase if necessary to adjust employees' pay to comply with the new minimum wage. This letter contains information on the types of vendors that are affected and what process will be used to make necessary rate adjustments.

**Providers with rates set by the Department of Developmental Services**

**(Department):** The proposed budget trailer bill, combined with current Title 17 regulations, allow Community-Based Day Programs (CBDP) and Work Activity Programs (WAP) to submit rate adjustment requests to the Department due to the increase in minimum wage. Vendors can begin submitting requests to the Department, with a copy to the vendoring regional center, at any time. However, all rate adjustment requests must be received by the Department no later than September 2, 2014. General information about the increase in minimum wage as well as detailed instructions and a workbook for submitting rate adjustment requests to the Department can be found at the following website:

[www.dds.ca.gov/MinWage](http://www.dds.ca.gov/MinWage)

To request a rate adjustment, vendors of CBDP and WAP services must submit to the Department, information on only those costs necessary to increase an employee's actual hourly wage to the new \$9.00 per hour minimum wage rate and associated mandated employer costs (e.g. Social Security, Medicare, and workers' compensation). Vendors must submit actual employment and mandated employer cost information for affected employees only and total program units of service provided for the period of October, November, and December 2013, or an applicable period for up to three (3) months. The Department will provide regional centers a copy of all letters sent to service providers in response to rate adjustment requests. Final approval of rate adjustments is contingent upon approval of the 2014-15 State budget and will be effective July 1, 2014.

**"Building Partnerships, Supporting Choices"**

**Providers with rates set through negotiation by regional centers:**

The proposed budget trailer bill also allows regional centers to negotiate rate adjustments with providers in order to pay employees no less than the new minimum wage effective July 1, 2014. The rate adjustment must be specific to the unit of service that is affected by the new minimum wage and shall only include those costs necessary to increase an employee's actual hourly wage to the new \$9.00 per hour minimum wage rate and associated mandated employer costs (e.g. Social Security, Medicare, and workers' compensation). Regional centers may use a worksheet similar to the one developed for CBDPs discussed above to assist in processing rate adjustment requests and must maintain documentation on the process to determine, and rationale for granting, any rate adjustment associated with minimum wage. Vendors must submit rate adjustment requests to the vendoring regional center no later than September 2, 2014. Final approval of rate adjustments is contingent upon approval of the 2014-15 State budget and will be effective July 1, 2014.

By September 30, 2014, regional centers must provide the Department information on all rate adjustments negotiated with vendors. The Department will follow up with regional centers on the process for reporting the needed information.

**Providers with other rates:**

- Alternative Residential Model (ARM) rates/respite facilities: The proposed ARM rates, effective July 1, 2014, for community care facilities, are enclosed. These rates also affect respite facilities (service code 869).
- In-Home Respite Agencies (IHRAs): The Department will revise the rates for all IHRAs and will provide regional centers with copies of the revised rate letters to IHRAs.
- In-Home Respite Worker (service code 864): The proposed new rate, effective July 1, 2014, is \$11.88 per consumer hour.
- Voucher and Participant-Directed Respite (service codes 420 and 465): The proposed new rate, effective July 1, 2014, is \$11.88 per consumer hour.
- Non-Mobile Supplemental Staffing: Pursuant to Title 17, Section 57530, the supplemental reimbursement rate for Community-Based Day Programs will increase to \$1.08 per consumer hour.

Regional Center Executive Directors  
May 16, 2014  
Page three

If you have any questions regarding this letter, please contact Jeff Greer, Chief, Rates and Fiscal Support Section, at (916) 654-2300.

Sincerely,

***Original Signed By***

JIM KNIGHT  
Assistant Deputy Director  
Community Services Division

Enclosure

cc: Regional Center Administrators  
Regional Center Chief Counselors  
Association of Regional Center Agencies

OFFICE COPY

Prepared By \_\_\_\_\_

Approved By \_\_\_\_\_

An act to amend Sections 4681.6, 4691.6, and 4691.9 of the Welfare and Institutions Code, relating to developmental services.

DRAFT

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 4681.6 of the Welfare and Institutions Code is amended to read:

4681.6. (a) Notwithstanding any other ~~provision of law or regulation,~~ commencing July 1, 2008:

~~(a)~~ ~~No~~

(1) A regional center ~~may~~ shall not pay an existing residential service provider, for services where rates are determined through a negotiation between the regional center and the provider, a rate higher than the rate in effect on June 30, 2008, unless the increase is required by a contract between the regional center and the vendor that is in effect on June 30, 2008, or the regional center demonstrates that the approval is necessary to protect the consumer's health or safety and the department has granted prior written authorization.

~~(b)~~ ~~No~~

(2) A regional center ~~may~~ shall not negotiate a rate with a new residential service provider, for services where rates are determined through a negotiation between the regional center and the provider, that is higher than the regional center's median rate for the same service code and unit of service, or the statewide median rate for the same service code and unit of service, whichever is lower. The unit of service designation ~~must~~ shall conform with an existing regional center designation or, if none exists, a designation used to calculate the statewide median rate for the same service. The regional center shall annually certify to the department its median rate for each negotiated rate service code, by designated unit of service. This certification ~~will~~ shall

be subject to verification through the department's biennial fiscal audit of the regional center.

(b) Notwithstanding subdivision (a), commencing July 1, 2014, regional centers may negotiate a rate adjustment with residential service providers regarding rates that are otherwise restricted pursuant to subdivision (a), if the adjustment is necessary in order to pay employees no less than the minimum wage as established by Section 1182.12 of the Labor Code, as amended by Chapter 351 of the Statutes of 2013, and only for the purpose of adjusting payroll costs associated with the minimum wage increase. The rate adjustment shall be specific to the unit of service designation that is affected by the increased minimum wage, shall be specific to payroll costs associated with any increase necessary to adjust employee pay only to the extent necessary to bring pay into compliance with the increased state minimum wage, and shall not be used as a general wage enhancement for employees paid above the minimum wage. Regional centers shall maintain documentation on the process to determine, and the rationale for granting, any rate adjustment associated with the minimum wage increase.

(c) For purposes of this section, "residential service provider" includes Adult Residential Facilities for Persons with Special Health Care Needs, as described in Section 4684.50.

(d) This section shall not apply to those services for which rates are determined by the State Department of Health Care Services, or the State Department of Developmental Services, or are usual and customary.

SEC. 2. Section 4691.6 of the Welfare and Institutions Code is amended to read:

4691.6. (a) Notwithstanding any other ~~provision of~~ law or regulation, commencing July 1, 2006, the community-based day program, work activity program, and in-home respite service agency rate schedules authorized by the department and in operation June 30, 2006, shall be increased by 3 percent, subject to funds specifically appropriated for this increase in the Budget Act of 2006. The increase shall be applied as a percentage, and the percentage shall be the same for all providers. Any subsequent increase shall be governed by subdivisions (b), (c), (d), ~~and (e)~~ (e), (f), and (g), and Section 4691.9.

(b) Notwithstanding any other ~~provision of~~ law or regulation, the department ~~may~~ shall not establish any permanent payment rate for a community-based day program or in-home respite service agency provider that has a temporary payment rate in effect on June 30, 2008, if the permanent payment rate would be greater than the temporary payment rate in effect on or after June 30, 2008, unless the regional center demonstrates to the department that the permanent payment rate is necessary to protect the consumers' health or safety.

(c) Notwithstanding any other ~~provision of~~ law or regulation, neither the department nor any regional center ~~may~~ shall approve any program design modification or revendorization for a community-based day program or in-home respite service agency provider that would result in an increase in the rate to be paid to the vendor from the rate that is in effect on or after June 30, 2008, unless the regional center demonstrates that the program design modification or revendorization is necessary to protect the consumers' health or safety and the department has granted prior written authorization.

(d) Notwithstanding any other ~~provision of law or regulation~~, the department ~~may~~shall not approve an anticipated rate adjustment for a community-based day program or in-home respite service agency provider that would result in an increase in the rate to be paid to the vendor from the rate that is in effect on or after June 30, 2008, unless the regional center demonstrates that the anticipated rate adjustment is necessary to protect the consumers' health or safety.

(e) Notwithstanding any other ~~provision of law or regulation~~, except as set forth in subdivision (f), the department ~~may~~shall not approve any rate adjustment for a work activity program that would result in an increase in the rate to be paid to the vendor from the rate that is in effect on or after June 30, 2008, unless the regional center demonstrates that the rate adjustment is necessary to protect the consumers' health and safety and the department has granted prior written authorization.

(f)Notwithstanding any other law or regulation, commencing July 1, 2014, the department may approve rate adjustments for a work activity program that demonstrates to the department that the rate adjustment is necessary in order to pay employees who, prior to July 1, 2014, were being compensated at a wage that is less than the minimum wage established on and after July 1, 2014, by Section 1182.12 of the Labor Code, as amended by Chapter 351 of the Statutes of 2013. The rate adjustment pursuant to this subdivision shall be specific to payroll costs associated with any increase necessary to adjust employee pay only to the extent necessary to bring pay into compliance with the increased state minimum wage, and shall not constitute a general wage enhancement for employees paid above the increased minimum wage.



(g) Notwithstanding any other law or regulation, commencing July 1, 2014, community-based day program and in-home respite services agency providers with temporary payment rates set by the department may seek unanticipated rate adjustments from the department due to the impacts of the increased minimum wage as established by Section 1182.12 of the Labor Code, as amended by Chapter 351 of the Statutes of 2013. The rate adjustment shall be specific to payroll costs associated with any increase necessary to adjust employee pay only to the extent necessary to bring pay into compliance with the increased state minimum wage, and shall not constitute a general wage enhancement for employees paid above the increased minimum wage.

SEC. 3. Section 4691.9 of the Welfare and Institutions Code is amended to read:

(a) Notwithstanding any other provision of law or regulation, commencing July 1, 2008:

~~(a) No~~

(1) A regional center shall not pay an existing service provider, for services where rates are determined through a negotiation between the regional center and the provider, a rate higher than the rate in effect on June 30, 2008, unless the increase is required by a contract between the regional center and the vendor that is in effect on June 30, 2008, or the regional center demonstrates that the approval is necessary to protect the consumer's health or safety and the department has granted prior written authorization.

~~(b) No~~

(2) A regional center may shall not negotiate a rate with a new service provider, for services where rates are determined through a negotiation between the regional center and the provider, that is higher than the regional center's median rate for the same service code and unit of service, or the statewide median rate for the same service code and unit of service, whichever is lower. The unit of service designation ~~must~~ shall conform with an existing regional center designation or, if none exists, a designation used to calculate the statewide median rate for the same service. The regional center shall annually certify to the State Department of Developmental Services its median rate for each negotiated rate service code, by designated unit of service. This certification ~~will~~ shall be subject to verification through the department's biennial fiscal audit of the regional center.

(b) Notwithstanding subdivision (a), commencing July 1, 2014, regional centers may negotiate a rate adjustment with providers regarding rates that are otherwise restricted pursuant to subdivision (a), if the adjustment is necessary in order to pay employees no less than the minimum wage as established by Section 1182.12 of the Labor Code, as amended by Chapter 351 of the Statutes of 2013, and only for the purpose of adjusting payroll costs associated with the minimum wage increase. The rate adjustment shall be specific to the unit of service designation that is affected by the increased minimum wage, shall be specific to payroll costs associated with any increase necessary to adjust employee pay only to the extent necessary to bring pay into compliance with the increased state minimum wage, and shall not be used as a general wage enhancement for employees paid above the increased minimum wage.

Regional centers shall maintain documentation on the process to determine, and the rationale for granting, any rate adjustment associated with the minimum wage increase.

(c) This section shall not apply to those services for which rates are determined by the State Department of Health Care Services, or the State Department of Developmental Services, or are usual and customary.

## OFFICE COPY

Prepared By \_\_\_\_\_

Approved By \_\_\_\_\_

## LEGISLATIVE COUNSEL'S DIGEST

Bill No.

as introduced,\_\_\_\_\_.

General Subject: Service provider rate adjustments conforming with changes to minimum wage law.

Existing law establishes the State Department of Developmental Services and sets forth its powers and duties, including, but not limited to, the administration of state developmental centers and the administration and oversight of community programs providing services to consumers with developmental disabilities and their families.

Existing law, the Lanterman Developmental Disabilities Services Act, requires the department to enter into contracts with private nonprofit corporations to operate regional centers that provide community services and support for consumers and their families, including, but not limited to, residential placement. Existing law sets forth the duties of the regional centers, including, but not limited to, development of individual program plans, the purchase of needed services to implement the plan, and

monitoring of the delivery of those services. Existing law sets forth the department's and the regional center's authority to negotiate provider rates, and sets forth certain limitations. Existing law authorizes prescribed provider rate increases and prohibits others.

Existing law, commencing July 1, 2014, increases the state minimum wage to no less than \$9 per hour.

This bill would, notwithstanding existing law, authorize adjustment in prescribed provider rates commencing July 1, 2014, as necessary to adjust employee wages to meet the new state minimum wage law.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

**DEPARTMENT OF DEVELOPMENTAL SERVICES**  
**COMMUNITY CARE FACILITY RATES**  
**EFFECTIVE JANUARY 1, 2014**  
**AND PROPOSED RATES**  
**EFFECTIVE JULY 1, 2014**

Service Level	Monthly Payment Rate Per Consumer Effective <b>1/01/2014*</b>	Monthly Payment Rate Per Consumer Effective <b>7/01/2014*</b>
1	\$1003	\$1003
2-Owner	\$1,910	\$2,035
2-Staff	\$2,146	\$2,271
3-Owner	\$2,194	\$2,355
3-Staff	\$2,502	\$2,663
4A	\$2,941	\$3,108
4B	\$3,134	\$3,316
4C	\$3,326	\$3,523
4D	\$3,567	\$3,779
4E	\$3,825	\$4,047
4F	\$4,082	\$4,323
4G	\$4,386	\$4,647
4H	\$4,707	\$4,991
4I	\$5,159	\$5,477

The Personal and Incidental (P&I) expenses effective with the January 1, 2014 SSI/SSP payment standard increased from \$129.00 to \$130.00.

\*Includes the SSI/SSP pass through effective January 1, 2014.