

August 26, 2020

Amy Whiting, Staff Counsel
California Department of Developmental Services
1600 9th Street, Suite 240
Sacramento, CA 95814

RE: Alternative Service Delivery - Proposed Regulations (17 CCR 54326 and 56810)

Dear Ms. Whiting:

The Association of Regional Center Agencies (ARCA) represents California's 21 community-based regional centers, which advocate on behalf of, and coordinate services for, more than 350,000 persons in California with developmental disabilities and their families.

ARCA appreciates the opportunity to comment on the regulations proposed by the Department of Developmental Services (DDS) related to the establishment of alternative service delivery options for non-residential services in light of the COVID-19 pandemic.

ARCA would like to acknowledge the work of DDS in striving to strike a thoughtful balance between the health and safety of those being served, the provision of meaningful services, the preservation of a service provider network, and the receipt of federal funds.

With regard to the proposed regulation to establish the Alternative Service Delivery for Nonresidential Services During COVID-19, Title 17, Division 2, Chapter 3, Subchapter 5, Section 56810, ARCA recommends the following:

Section 56810 (b)(2):

ARCA believes non-residential services that are only modified through the provision of remote service delivery should continue to be funded as traditional services.

ARCA recommends the following modification to this section: "Vendors shall utilize alternative delivery of nonresidential services to consumers when the delivery of nonresidential services is not possible or must be modified due to COVID-19. This section shall not apply to services modified only through the provision of remote service delivery."

Section 56810 (d)(1):

The proposed language lists a number of critical attestations a service provider must make in order to offer alternative services. This section should make clear the role of the consumer in selecting from available service options, and be expanded to include an additional requirement related to adherence with public health guidance.

ARCA recommends modifying proposed Section 58610 (d)(1)(B) as follows: “Within 90 days of enactment of this regulation, the vendor will engage the consumer’s planning team to arrive at agreement about which options available under the vendor’s alternative delivery of nonresidential services the consumer will receive.”

ACRA recommends adding Section 56810 (d)(1)(F) to read, “The vendor is aware of local public health guidance related to COVID-19, will adhere to it, and has trained staff on it.”

Section 56810 (e):

To make billing processes feasible and enhance fairness in the implementation of the alternative service delivery model, including capturing recent supplemental rate adjustments and increases in response to the rising statewide minimum wage, ARCA recommends several changes to the proposed funding methodology.

ARCA’s recommended modifications to this paragraph are as follows:

(e) Vendors shall submit claims for alternative delivery of nonresidential services utilizing a monthly unit rate per person, uniform for all consumers within a vendor number, calculated by taking using the total units billed in that vendor number average monthly amount reimbursed based on over the prior 12 months ending February 2020. For those 12 months divided by the total monthly enrollments in that vendor number over the same period multiplied by the current billing rate, only those months where the amount of reimbursement to the vendor is greater than zero shall be included in determining the average.

(1) The monthly unit rate for vendors reimbursed by individual consumer service authorizations shall be calculated using the average monthly per capita units amount reimbursed to the vendor for each consumer. The monthly unit rate for vendors not vendored by a regional center prior to February 2020 shall be calculated by determining an appropriate hourly or daily rate and converting it to a monthly unit rate, assuming the same utilization percentage as other similar programs.

(2) The monthly unit rate for vendors not reimbursed by individual consumer service authorizations shall be calculated using the monthly average amount reimbursed to the vendor. Any vendor submitting a claim for alternative service delivery for any consumer within a vendor number for services provided during a calendar month shall submit claims for all consumers receiving services under that vendor number for that calendar month using the alternative service delivery rate.

ARCA appreciates DDS’s commitment to adjusting service delivery to better meet the needs of people with developmental disabilities during the pandemic. The broad policy proposed demonstrates a deep commitment to this community and its needs. Given the complexity of implementation, ARCA recommends the following be considered:

- Timely implementation of this model will only be possible through as much automation as possible (e.g., DDS updating the regional centers’ vendor rate tables and using the e-billing platform for as much data collection as possible).
- As DDS is calculating and setting the rates, it should generate letters advising vendors of their new rates and be prepared to address questions and appeals from vendors related to the rate calculation.

- To ensure payments for services provided in September 2020 are as smooth as possible, regional centers need as much time as possible to test accounting systems with the new rates ahead of implementation.
- Additional clarity is needed about how this model applies to transportation services, due to particular complexities with their funding structures, as well as supported employment group, due to funding overlaps with the Department of Rehabilitation.
- There are certain nonresidential services this model does not appear to be a good fit for (*e.g.*, durable medical equipment, money management), so a list of those it does not apply to would allow for greater planning.
- The Annual Family Program Fee and Family Cost Participation Program should be suspended for the duration of implementation of these rates as this may artificially inflate a family's share-of-cost.
- As this model (as well as the recent absence payments) are based on averages rather than discrete hours of service, it is important to note individual annual statements, purchase of service reports, and Self-Determination Program budget calculations will be skewed.

If you have any questions regarding our position, please do not hesitate to contact me at awestling@arcanet.org or (916) 446-7961.

Sincerely,

/s/

Amy Westling

Executive Director