2009 Changes to the Lanterman Developmental Disabilities Services Act

What they are and how these changes may impact services to individuals with autism.

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April 15, 2010

Trailer Bill Language

Was not just *budgetary* changes, it was changes to the **law**.

The Trailer Bill, a.k.a. ABX4 9, Chapter 9, Statutes of 2009, effective July 28, 2009.

- Trailer Bill Language, a.k.a. TBL, contains an urgency clause, and became effective *immediately*.

- For new IFSPs and IPPs, this provision was effective upon enactment of TBL.
- For existing IFSPs/IPPs regional centers were required to provide 30-day notice to discontinue funding for some services.

Why fix something that's not broken?

- When the Lanterman Developmental Disabilities Services Act was written in 1969 there was:
- A **lot** of money in the General Fund.
- Not a lot of persons with developmental disabilities in the system.
- Passing new taxes was easier (voter mood was generous, and Prop 13 was not in effect).
- If regional centers spent all their Purchase Of Services money (POS) in a year, the legislature just gave them more money to finish out the year. There were no limits on spending!

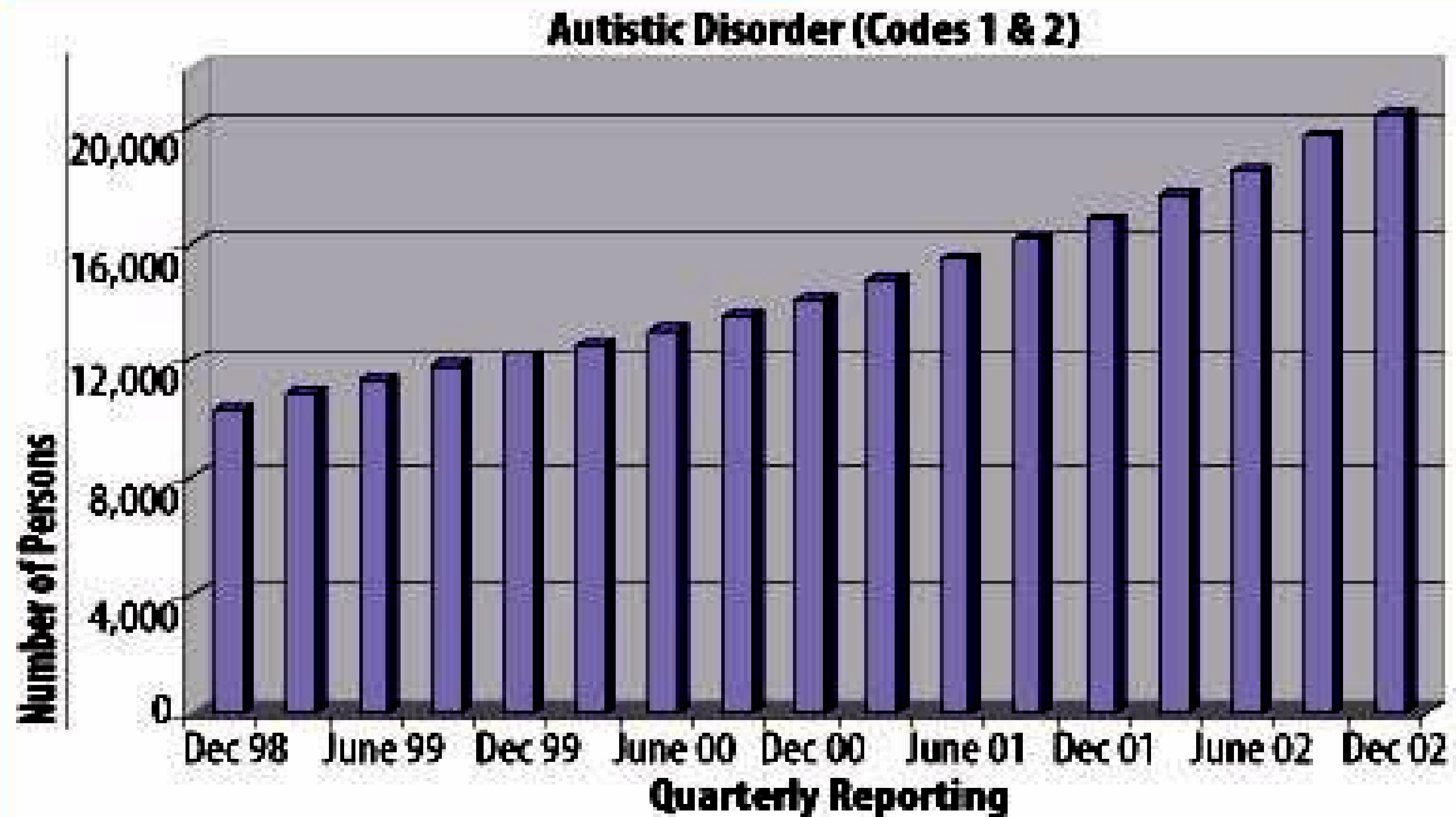
Now there is a huge deficit. The General Fund has been cut $26 billion and tax revenues are falling, meaning the deficit will increase.

Regional center budgets have been cut with more cuts on the way. In July $334 million was cut from the current fiscal year budget, but the cuts came later in the year. Now regional centers have had to cut spending in both Operations (operating expenses) and Purchase of Services budgets, with less time to spread out the cuts over the fiscal year.

There are now over 240,000 persons who qualify for regional center services, at least a 10 fold increase since 1977, with a significant growth in new cases of persons diagnosed with autism every year.

- If regional centers spend all their POS funds before the fiscal year is out, the state will not give them any more for that fiscal year. Some regional centers are furloughing employees, cutting back on days open, freezing hiring, laying off personnel and delaying payments to vendors.

CDERS 1998-2002



In July 1992 TCRC had 4503 persons being served and 175 of them were classified as autistic. That was **3.8%** of total cases.

In July 2007 TCRC had 7994 persons being served and 1456 of them were classified as autistic. That was **18.2%** of total cases, which was almost a 500% increase in 15 years. This increase is the most significant POS factor for children we serve. [kids with autism cost more to serve than most other kids we serve].

Statewide, in June 1987 there were approximately 2500 persons statewide in the RC system with autism.

- In June of 2007 that figure was 35,000. That is a 14 fold increase over 20 years.

So the purpose of the Trailer Bill?

- Is to try and save the state money.
- If the current changes don't save the state money, then the state will come up with other ways to save money.
- The way the other 49 states save money is to get rid of the entitlement provision, have waiting lists, cut rates paid to vendors, and make eligibility more selective.

Temporarily Suspended Services
Section 4648.5 WIC

(regional centers are REQUIRED to stop funding them)

Camp and associated travel expenses.

Social recreation activities (*except* those vendored as community-based day programs OR when the social recreation activity for adults is part of the plan for ongoing day program and total programming does not exceed 30 hours per week).

Temporarily Suspended services continued:

Educational services for children 3-17 years of age

Non-medical therapies, including, but not limited to specialized recreation, art, music, dance, horseback riding and swimming.

Generic Resources 4659(c) WIC

Regional Centers are required to use generic services when available. If a person served or family member chooses **NOT** to access available generic services (e.g. military dependent insurance, IHSS, Medi-Cal, public school, CCS, parent's medical insurance), regional centers will **not** be able to pay for the services.

If a person requests services beyond what the generic resource is willing to provide, can TCRC fund the additional service?

NO. TCRC CANNOT SUPPLANT THE GENERIC RESOURCE. WE ARE PAYOR OF LAST RESORT, NOT PAYOR NEXT IN LINE. (That being said, there are always exceptions, but they must be extraordinary).

Exceptions?

- A family will have to show evidence that significant loss of skills that is irreversible will occur if the service is not provided.
- E.g. a child gets 2 hours of speech therapy at school; family wants the RC to pay for an additional hour a week. There will have to be evidence that without the additional hour the child will be harmed irreversibly and the family will have to appeal the school's limit of two hours and RCs still cannot pay for any services that rightfully should be on an IEP.

IEPs?

- Schools are the main provider of specialized services to children with autism age 3-22.
- Behavior therapy, social skills, speech therapy and occupational therapy are all Designated Instructional Services and should be in place on an IEP; RCs cannot provide a service that can and should be on an IEP. That's the law.

Respite Program 4686.5 WIC

THE NEW LAW LIMITS THE NUMBER OF HOURS OF RESPITE THAT A REGIONAL CENTER MAY FUND PER QUARTER TO 90 HOURS/QUARTER OF IN-HOME RESPITE.

In-Home respite is being interpreted by some regional centers as meaning it cannot be used for an aide to take a child to soccer, for example. It is not to be used as a cheap way to fund an aide, or to have the funds diverted to therapies that the regional centers would not subsidize.

No banking of respite outside of the quarter

Exceptions may be granted if it is demonstrated that the intensity of care and supervision needs are such to maintain the person in the family home, or if there is an extraordinary event that impact the family's ability to meet these needs.

4692 WIC implemented a Uniform Holiday Schedule of 14 required holidays for work programs, activity centers, socialization training programs, day services, adaptive skills trainers, and a few others including client/parent support behavior intervention training programs, including transportation services associated with the programs.

There are no provisions in the law for supplemental services to be provided on the holidays. Exceptions will require going through the usual "exception" policy.

Prevention Program

- There were changes to the California Early Start program as well. Government Code 95014 (a)(1) changed eligibility requirements.
- The "High Risk" category was eliminated. Any child with genetic, medical, developmental or environmental history that used to be considered "high risk" for developmental disability may now eligible for the ***Prevention program.***

To qualify for Early Start services a child under the age of 24 months must demonstrate a 33% delay in one or more area of development.

A child 24 months to 35 months must demonstrate a delay of 50% in one area, or a delay of 33% or more in two areas to qualify for Early Start.

Some children with ASD who would have qualified under the old Early Start regulations will now be referred to the Prevention program, and it is possible that some of them will not get intensive early intervention. We can only identify children who need intervention if we can evaluate them, and some kids in the Prevention program just won't get evaluated as frequently as those children in Early Start.

As of October 1, 2009 regional centers will not purchase services that are not required under the federal Early Start grant program. Government Code 95020

This includes respite and social recreation programs.

Respite is only a required service when it enables a parent to participate in another Early Start intervention service (e.g. parent training through the Family Resource Center).

[No grandfathering allowed]. However, if a child qualifies under the Lanterman Act, TCRC can consider funding under that law.

"Can consider funding" does not always equal "will fund"

Use of Private Insurance

Government Code 95004

Parents are now required to ask their private insurance or health care service plan to pay for medical services covered by the insurance or plan. [Some ABA therapy is covered in certain plans].

But what about the stuff pertaining (mostly) to AUTISM?

Group Training for Parents on Behavioral Intervention Techniques- Government Code 95020 and 4685 WIC

- Requires the use of group training for parents of behavior intervention techniques, in lieu of some or all of the in-home parent training component of the behavior intervention services.

TCRC will do this by…

- Implementing a 16 hour group training to all families referred to behavior intervention services.
- A family must complete this training before any behavior services can start, although TCRC will pay for a concurrent assessment. However, assessment does not mean the treatment program will be authorized unless the assessment indicates it is needed at a particular level of service <u>AND</u> the family has completed the training.
- We have hired a variety of vendors in all three counties to provide a variety of training experiences, including individualized training should it be necessary.

Parent(s) of minors are **required** to participate in behavioral treatment intervention plans. Government Code 95021 and 4686.2 WIC

There are a variety of ways a parent can participate, but #1 is the parent watching, observing, learning how to “run” the behavior program. No teleparenting. No training by leaving notes in a log. A parent has to be there to learn.

Why the requirement for Group Training?

- Some families don’t need behavior therapy once they get the training. That saves the state money.
- Some families may indicate by their problematic participation or non-participation in such training that they may be poor candidates for in-home intervention programs.

In-home therapy is more productive when the families know what they are getting into:

when they know the difference between data and errata;

- when they know what to expect from the behaviorist coming into their home;
- when they learn the skills so they can parent their child without needing a trained behaviorist watching them and coaching them on what to do next.

Regional centers cannot purchase ABA or IBI for the purpose of providing respite, day care school services.

Once treatment goals and objectives that were identified in the IPP have been achieved, regional centers will discontinue purchasing the ABA/IBI. The planning team must review progress regularly (every 6 months) and change the service if it is not effective.

ABA/IBI programs can only be in place if they are a needed support per the IPP. The goal is for families to develop the skills so they no longer need the vendor in their home.

Most programs seem to deliver the most cost-effective dose response in the first 36 months. If the gain in skills is not faster than the chronological aging process (e.g. gaining at least 2 months in skills for every month of therapy) it is neither cost-effective nor effective.

And the Lanterman Act states that both efficacy and cost-efficacy must be demonstrated to continue a service.

Least Costly Vendor 4648(a)(6)(D) WIC

The Least Costly Vendor of comparable services who can deliver the needed service, consistent with the IPP, shall be used unless it is a more restrictive or less integrated service than currently utilized. The availability of federal financial participation shall be considered.

The person served (or their family) is not required to use the least costly provider if it will result in the person served moving from an existing provider of services or supports to more restrictive or less integrated services or supports.

[It does mean that the person can be moved from one provider to another (if equivalent) if it saves **money**]

Two **identical** providers. Same service code, same qualifications, similar programs

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Provider A rate is $50/hour.

Provider B rate is $75/hour.

Do the math.

Who is the least costly provider?

Changes to General Standards 4648(a)(15) WIC

Regional centers cannot fund experimental treatments, therapeutic services, or devices that have not been clinically determined or scientifically proven to be effective or safe or for which risks and complications are unknown.

What will regional centers use to determine what services we can purchase:

"experimental treatments, therapeutic services, or devices that have not been clinically determined or scientifically proven to be effective or safe or for which risks and complications are unknown."?

National Standards Report of the National Autism Center (2009)

ASD Best Practices Treatment Guidelines (to be issued in late 2010)

National Standards Report: Established Treatments

(the ones regional centers will be most likely to fund under the new TBL as well as the old Lanterman Act)

- Includes ABA, behavioral psychology, DTT and pivotal response therapy.

Emerging Treatments

the ones that are less likely to be purchased by regional centers

- Includes Developmental Relationship-based treatment (a.k.a. Greenspan, Floor time), language training, multi-component packages and social skills therapy.

Unestablished Treatments

no regional center can purchase these treatments under the new TBL

- Academic interventions
- Auditory integration training
- Facilitated communication
- Sensory integration therapy

Evaluation of Comprehensive Treatment Models (CTM) for Individuals with Autism Spectrum Disorders. Odom et al. Journal of Autism and Developmental Disorders 25 July 2009

CTMs were strongest in the operationalization of their models. Clearly stated procedures and materials are a requisite for high implementation.

Measurement of implementation was relatively weak.

Over half of the CTMs evaluated had no publication of efficacy in peer reviewed journals.

Individual Choice Budget Model [4648.6 WIC] to offer persons the option of self-directing their own services within a reduced, finite budget that will reduce RC POS, general fund expenditures, and maximizes federal participation.

We hope this will roll out in 2010, but no date is finalized at this time.

So what’s it all about?

- The state is trying to find answers which are solutions to some of the problems identified over the last 40 years, but which have been exacerbated by the current budget crisis.

Tri-Counties Regional Center: Our Mission:

TCRC provides person and family centered planning services and supports for individuals with developmental disabilities to maximize opportunities and choices for living, working learning and recreating in the community.

www.tri-counties.org

www.dds.ca.gov