

# **Regional Center Services Part Two: Appealing RC Denials**

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Disability Rights California

Webinar Training Series: Regional Center Services and Parent Advocacy

# OFFICE OF CLIENTS' RIGHTS ADVOCACY (OCRA) DISCLAIMER

- OCRA is a mandated reporter and obligated to report abuse and neglect of disabled adults.
- There is no right to confidentiality for anything you say or discuss during this presentation. Please do not share any private or confidential information.
- This presentation is solely for public information. It is not a private consultation for legal advice. No attorney/client relationship is formed between OCRA and you.

# Recap

- Learned about the Lanterman Act, a set of laws that focuses on the needs and rights of people with developmental disabilities to help them live independent, productive lives
- Learned about regional centers (RCs): eligibility process, individual program plan (IPP) meetings, early start services, and services and supports
- Discussed RC data
- Discussed that RC is the “payor of last resort”
- Parent Panel
- Would anyone like to add anything about what they learned from attending the trainings?

# TRAINING OBJECTIVES

- Learn about rights to appeal regional center denials
- Learn about the fair hearing process
- Learn about the complaint process
- Learn how to change a regional center service provider
- Learn more information about the regional center Purchase of Service (POS) data

**QUESTIONS?**

# WHO OCRA SERVES

OCRA advocates on behalf of consumers with developmental disabilities of the 21 regional centers across the state,\*

This includes:

- 1) People currently receiving regional center services
- 2) People seeking eligibility to receive regional center services.

- <https://www.dds.ca.gov/rc/listings/>

The local regional center is Kern Regional Center.

# WHAT IS A DEVELOPMENTAL DISABILITY?

- a disability that starts before age 18, is expected to continue indefinitely, and is a “substantial disability” for that person.
- Examples:
  - Cerebral palsy
  - Epilepsy
  - Autism
  - Intellectual disability
  - Other conditions like intellectual disability or that require similar treatment (also known as 5<sup>th</sup> category)

**WHAT WE HAD LEFT FROM PART ONE ON REGIONAL  
CENTER SERVICES AND THE LANTERMAN ACT**



# ROLE OF RC IN TRANSITION

- During the exit years (18-22):
  - Assist in encouraging other agencies to attend the IEP/ITP meetings.
  - Assist families to explore adult agencies, tour them, so families and students can make informed decisions.
  - Service coordinators attending every IEP for transition and assisting with the smooth transition to the adult service system.

# TRANSITION SERVICES

- Special Living Arrangements
- Supported Employment
- Mental Health Services
- Follow Along Services
- Adaptive Equipment and Supplies
- Community Integration Services
- Daily Living Skills
- Travel Training

# 2011 CHANGES TO LAW REGARDING SERVICES FOR TRANSITION AGE YOUTH

- Effective July 1, 2011, the law limits who can receive the following services if they are between 18-22 years old:
  - Day program,
  - Vocation education,
  - Work services,
  - Independent living program, and
  - Mobility training and related transportation.
- There are exemptions to this provision, so be sure to consult an expert on this area of the law if you have any questions.

# WHAT ARE SOME OF THE CHOICES FOR LIVING ARRANGEMENTS?

For children:

- With family
- Foster family agency home (FFA)
- Small family home or community care facility
- Intermediate Care Facility (ICF)
- Bates Home

For adults:

- Supported living
- Independent living
- With family
- Adult family home agency (FHA)
- Community care facility
- ICF

# OUT OF HOME PLACEMENT

- Numerous alternatives.
- It must be located reasonably close to the family home. (W&I §4685.1)
- If not, the IPP must contain a statement about efforts to do so.
- The IPP must also include a written statement about developing the services and supports to return the child to the family home.
- Some fees may be assessed a parent for out of home placement.

# CONTACTING THE REGIONAL CENTER

- All regional centers are open for business
  - Some staff working remotely
  - Some not holding face-to-face meetings
  - Call or email them—
    - Listen to what the VM is stating (may have an email address, may state their timeframe for getting back to you)
    - Follow up with supervisors
- Call OCRA for help

# **FAIR HEARINGS**

# WHAT IS A FAIR HEARING?

- The fair hearing process is a process for resolving disagreements between the regional center or state developmental center and consumers or applicants who are age three or older.
- For disagreements involving consumers or applicants who are UNDER three years of age, refer to Early Start Mediation and Due Process Hearing Requests.



# WHEN CAN THE FAIR HEARING PROCESS BE USED?

There is a fair hearing process that can be used to appeal regional center decisions about:

- Eligibility
- Continued need for a services.
- Reductions or changes in service.
- Denial of a requested service.

# It's Your Right!

It's your right to say "**NO**" when you disagree with the regional center's decision to cut, end, or change your services!

# It's Your Right!

When you disagree with the regional center's decision, the regional center **MUST** send you a written Notice of Action!

# The Fair Hearing Process: How to Request a Hearing

- Complete the form that comes with the notice.
- Hearing request form can also be found on DDS website.
- If request is verbal, regional center must provide the form.
- Regional center must give needed help in filling out the form.

# What is an Notice of Action (NOA)?

- NOA stands for Notice of Action
- Written notice on a form your regional center sends to you
- Sometimes the regional center (RC) sends a letter with the NOA form

# When Do You Get an NOA?

- Your regional center MUST give you a written NOA when it:
  - Cuts, Changes, Ends your existing services
  - Denies new services you want to get

# What Language is the NOA Sent?

- Your RC must give you an NOA in the language you understand!
  - Spanish      Korean
  - Chinese      Vietnamese
  - Whatever language you understand

# What Else is Sent?

- Your RC MUST also send you:

- Fair Hearing Request Form

- Fair Hearing Process Procedure Brochure

All in YOUR language!



# NOA Timelines

- RC Has to Give You a Written NOA:

- At least **30** days before they can cut, end, or change your existing services!

- Within **5** working days of making a decision not to start a new service!

# Why Do You Get an NOA?

- So You Can Know:
  - What your RC is going to do
  - Why your RC is doing it
  - When your RC is going to do it
  - How you can appeal if you disagree

# Why Do You Get an NOA?

- So You Can Understand:
  - How to continue to get your services while you appeal (“Aid Paid Pending”)
  - Exemption/Exceptions you may qualify for
  - Information about advocates who can help
  - Information about the hearing procedure

# Common Problems

## Common Violations by RCs:

- Don't send an NOA when they cut your services
- Don't send an NOA when they deny or terminate eligibility for RC services
- Tell you over the phone they are cutting respite hours (no written NOA)

# Common Problems

Common Violations by RCs:

- Give the NOA to you in English when you don't read/understand English
- Say they do not have the \$ to pay for transportation without giving you an NOA
- You find out from your provider your ABA hours were cut without an NOA

# Common Problems

## Common Violations by RCs:

- Send you an IPP addendum outside of an IPP meeting that cut your services and ask you to sign it without giving you an NOA
- Ignore your request for services and don't give you an NOA
- Say they didn't send you an NOA because you didn't ask for one

# Common Problems

## Common Violations by RCs:

- Say you agreed with their decision without telling you about your rights to appeal
- Say no need for an NOA because your service was only good for a certain amount of time: “time-limited” “expired”

# Common Problems

## Common Violations by RCs:

- Change your service provider without telling you
- Ignore your calls or make excuses causing an unreasonable delay in receiving services (i.e., they have not made a decision yet; they are still investigating; they are reviewing the matter, etc.)



**QUESTIONS?**

# NOA

State of California—Health and Human Services Agency		Department of Developmental Services	
<b>NOTICE OF PROPOSED ACTION</b> DS 1803 (Rev. 1/2009)(Electronic Version)		Date: _____	
Name of Service Applicant/Recipient:		Medicaid Home and Community Based Services Waiver Participant? (Check one) <input type="checkbox"/> Yes <input type="checkbox"/> No	
Address:		Telephone Number:	
Name of Authorized Representative:			
Address:		Telephone Number:	
Name of Regional Center or State Developmental Center:			

\_\_\_\_\_ hereby notifies you that it proposes to take the  
(Regional Center or State Developmental Center)

following action which may affect your services:

Proposed action:

Reason for action:

Effective date:

Authority for the action (law, regulation, and/or policy in support of the action):

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**RIGHT TO APPEAL**

- You may file an appeal with the Department of Developmental Services on the enclosed Fair Hearing Request form. The regional center or state developmental center is available to assist you in completing the form, if necessary. Submit the completed Fair Hearing Request form to:
- Advocacy assistance with your appeal may be obtained from the following organizations:
  - Local Client's Rights Advocate:
  - Local Area Board:
  - Disability Rights California:
  - Other:
- YOUR SERVICES WILL CONTINUE DURING THE APPEAL PROCESS IF YOUR REQUEST FOR A FAIR HEARING IS POSTMARKED OR RECEIVED BY THE REGIONAL CENTER OR STATE DEVELOPMENTAL CENTER, WHICHEVER IS EARLIER, NO LATER THAN 10 DAYS AFTER RECEIVING THIS NOTICE.**  
The enclosed brochure, entitled "The Fair Hearing Process for Consumers Age 3 Years or Older", specifies your appeal rights and provides information about the fair hearing process.

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Distribution:	Service Applicant/Recipient	Authorized Representative	Regional Center or State Developmental Center
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# Hearing Request Form

State of California—Health and Human Services Agency  
Department of Developmental Services

**FAIR HEARING REQUEST**  
DS 1805 (Rev. 1/2007)

Page 1 of 2

Name of Person for Whom Hearing is Requested: (Claimant)	Date of Birth:	Medicaid Home and Community Based Services Waiver Participant? (Check one) <input type="checkbox"/> Yes <input type="checkbox"/> No
Address:		Daytime Telephone Number:
Name of Regional Center or State Developmental Center:		

A State level fair hearing will be scheduled. In an effort to resolve this matter prior to a fair hearing, I am also requesting the following: (Check all that apply)

An informal meeting with the regional center's or state developmental center's director, or his/her designee.

Mediation with a neutral, independent mediator who will assist in reaching an agreement.

Reason(s) for requesting a fair hearing:

Describe what is needed to resolve your complaint:

Requester's Name If Not the Claimant:	Relationship to Claimant:
Address:	Daytime Telephone Number:

Requester's Signature \_\_\_\_\_ Date of Request \_\_\_\_\_

Are the services of an interpreter required?  No  Yes If yes, what language \_\_\_\_\_

**REPRESENTATIVE AUTHORIZATION**

I authorize the following person (Name) \_\_\_\_\_  
(Address) \_\_\_\_\_ (Daytime Telephone Number) \_\_\_\_\_  
to represent me, the claimant, in this matter.

Claimant's/Area Board's Signature \_\_\_\_\_ Date \_\_\_\_\_

**DATES NOT AVAILABLE**

I am not available during the following hours or days. (When identifying hours/days you will not be available, please keep in mind that an informal meeting will be held within 10 days, mediation within 30 days, and the fair hearing within 50 days after the receipt of your request.)

Signature of Claimant or Authorized Representative \_\_\_\_\_

*(Attach copy of Notice of Proposed Action. See page 2 for Appeal Rights and Instructions)*

Distribution: Office of Administrative Hearings Regional Center/State Developmental Center Department of Developmental Services  
Claimant

# A Fair Hearing Process Procedure Brochure

The  
Fair Hearing Process  
for Consumers  
Age 3 Years and Older



**DDS**  
Department of Developmental Services

October 2006

# INFORMAL MEETING

- A meeting with the director of the regional center or someone acting on his/her behalf.
- Must be held within 10 days of your request.
- You can bring other people with you to explain your case but you do not have to.
- This is a good opportunity to explain your case and hear the other side. It is also a good chance to negotiate.
- Regional center will send you a letter explaining its offer to you.

# MEDIATION

- Mediation is a meeting between the parties and a neutral third party who is specially trained to help you reach agreement.
  - The mediator does not issue a decision.
  - Mediation is a voluntary process for both parties.

# WHAT TYPE OF MEETING IS A FAIR HEARING?

- The hearing is an administrative hearing. It is held in a conference room, usually at the regional center, not a traditional courtroom.
  - The hearing is held before an Administrative Law Judge (ALJ).
  - The ALJ is an independent officer of the court and employed by the Office of Administrative Hearings (OAH).
  - You do not need an attorney to attend with you but you can have one. You can also have an advocate or a family member assist you.

# HEARING TIMELINE

- The Hearing must be held within 50 days of when the request was made for children over 3 and within 30 days for children under 3. (W & I sec 4712 (a))
  - A list of witnesses and the general subject of their testimony and all evidence must be submitted to the regional center 5 calendar days prior to the hearing. (W & I sec 4712(d))



# **4731 COMPLAINTS & OTHER OPTIONS**

# THE “4731 COMPLAINT” PROCESS

- When rights have been violated by a regional center, developmental center or provider.
- For example, if the regional center:
  - Refuses to do a required assessment or meet required timelines.
  - Does not provide notice at all or adequate notice if it denies eligibility.
- The complaint is submitted to the director of the regional center and, if not resolved, can then be submitted to the director of DDS.

# CAN YOU CHANGE YOUR SERVICE COORDINATOR?

- Yes. You can ask for a different service coordinator if you are unhappy with the one that the regional center has assigned to you.
- Because your relationship with your service coordinator is such an important one, no person can continue as your service coordinator unless you agree.
- If you ask for a different service coordinator, the regional center must assign a new one.
- If the regional center wants to change your assigned service coordinator permanently, it has to give you a written notice within 10 business days.

**DATA**

# 2019-2020 KRC DATA

Ethnicity	Number of KRC Consumers	Total expenditures	Total Authorized Services
Black/African American	867	\$16,137,285	\$23,552,310
Hispanic	5,337	\$51,183,772	\$76,653,465
White	3,389	\$76,881,829	\$115,798,635
Native American/Alaskan Native	84	\$1,717,107	\$2,424,059
Asian	321	\$5,297,357	\$7,929,838
Native Hawaiian and Other Pacific Islander	7	\$121,158	\$144,677
Other ethnicity/race/Multi-cultural	883	\$9,292,189	\$14,586,053

Ethnicity	Per Capita Expenditures	Per Capita Authorized Services
Black/African American	\$18,613	\$27,165
Hispanic	\$9,590	\$14,363
White	\$22,686	\$34,169
Native American/Alaskan Native	\$17,308	\$20,668
Asian	\$16,503	\$24,704
Native Hawaiian and Other Pacific Islander	\$20,442	\$28,858
Other ethnicity/race/Multi-cultural	\$10,523	\$16,519

ALL	Ethnicity	Per Capita Expenditures	Per Capita Authorized Services
	Black/African American	\$18,613	\$27,165
	Hispanic	\$9,590	\$14,363
	White	\$22,686	\$34,169
	Native American/Alaskan Native	\$17,308	\$20,668
	Asian	\$16,503	\$24,704
	Native Hawaiian and Other Pacific Islander	\$20,442	\$28,858
	Other ethnicity/race/Multi-cultural	\$10,523	\$16,519
		Ethnicity	Per Capita Expenditures
0-2	Black/African American	\$3,467	\$6,180
	Hispanic	\$4,473	\$7,096
	White	\$5,670	\$9,608
	Native American/Alaskan Native	\$4,939	\$9,204
	Asian	\$4,371	\$7,518
	Native Hawaiian and Other Pacific Islander	\$3,197	\$4,970
	Other ethnicity/race/Multi-cultural	\$5,032	\$7,939
	Ethnicity	Per Capita Expenditures	Per Capita Authorized Services
3-17	Black/African American	\$7,786	\$13,016
	Hispanic	\$4,765	\$7,792
	White	\$8,073	\$13,082
	Native American/Alaskan Native	\$8,700	\$11,194
	Asian	\$9,370	\$14,427
	Native Hawaiian and Other Pacific Islander	\$1,599	\$2,309
	Other ethnicity/race/Multi-cultural	\$5,983	\$10,469

# SURVEY

- <https://www.surveymonkey.com/r/N2SH9D7>

# **KERN TRAINING SERIES**

Regional Center Services Part One: RC and the Lanterman Act

Thursday, April 1, 2021

5:00pm to 7:00pm

Parent Panel: Learn from the experiences of other parents about how to increase your advocacy!

Wednesday, April 7, 2021

5:30pm to 7:30pm

**Regional Center Services Part Two: Appealing RC Denials**

Monday, April 19, 2021

2:00pm to 4:00pm



# WHAT WE LEARNED THROUGH THE TRAINING SERIES

- Learned about OCRA's services
- Learned more about the set of California laws that exist to help people with developmental disabilities receive the supports and services they need to live in the community more independently
- Learned about the purpose of regional centers and services they offer
- Discussed the regional center eligibility process
- Discussed regional center data
- Learned from parent advocates during the Parent Panel
- Learned about the various ways you can appeal RC decisions

# LEGAL RESOURCES

- Disability Rights California: <http://www.disabilityrightsca.org>
  - Rights Under the Lanterman Act: <https://www.disabilityrightsca.org/publications/rula-rights-under-the-lanterman-act-complete-manual>
  - Fair Hearing Flow Chart
    - <https://www.disabilityrightsca.org/system/files/file-attachments/506301SuppS.pdf>
  - Regional Center Hearing Packet
    - <https://www.disabilityrightsca.org/publications/regional-center-hearing-packet>
- Parent Panelist Websites
  - Parenting Black Children <https://parentingblackchildren.org/>
    - <https://www.sgprc.org/home/showpublisheddocument?id=4788>
  - All of Us or None <https://www.allofusornonebakersfield.com/>
  - Leap of Faith Family to Family Support <https://www.leapfamilysupport.org/>
- DDS Website for Fair Hearings
  - <https://www.dds.ca.gov/general/appeals-complaints-comments/fair-hearings-complaint-process/>

# HOW CAN YOU REACH OCRA?

**We are happy to help, if possible!**

**Office of Clients' Rights Advocacy**

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