

AMENDED IN SENATE SEPTEMBER 7, 2007

AMENDED IN SENATE JULY 2, 2007

AMENDED IN ASSEMBLY APRIL 26, 2007

CALIFORNIA LEGISLATURE—2007—08 REGULAR SESSION

ASSEMBLY BILL

No. 1402

Introduced by Assembly Member Evans

February 23, 2007

An act to *amend Section 4705 of, and to add Sections 4646.6 and 4704.6 to, the Welfare and Institutions Code, relating to developmental services.*

LEGISLATIVE COUNSEL'S DIGEST

AB 1402, as amended, Evans. Individual program plan meetings: recordation: appeals procedure information.

Existing law, the Lanterman Developmental Disabilities Services Act, grants persons with developmental disabilities the right to receive treatment and services to meet their needs, regardless of age or degree of disability, at each stage of life. Existing law requires that the state pay for these services through contracts with various private nonprofit corporations for the operation of regional centers for the developmentally disabled, and requires regional centers to develop an individual program plan for each consumer that sets forth the treatment and services to be provided for the consumer.

Existing law grants an applicant for, or recipient of, services, or his or her representative, who is dissatisfied with any decision or action of the service agency, as defined, an opportunity for a fair hearing, including the option for a voluntary informal meeting or for voluntary mediation.

This bill would grant a consumer, or his or her parent, guardian, conservator, or authorized representative, the right to make an audio tape recording of the individual program plan meeting, and would require the regional centers and vendors to provide appeal procedure information on their respective Internet Web sites, if any, including, but not limited to, a link to the department’s Internet Web site, including the department’s telephone number for the purpose of answering consumer and applicant questions about the appeals procedure. *It would also require all recipients, applicants, and others having legal responsibility for recipients or applicants to be notified of the service agency’s mediation and fair hearing procedure upon request.*

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

The people of the State of California do enact as follows:

1 SECTION 1. Section 4646.6 is added to the Welfare and
2 Institutions Code, to read:

3 4646.6. Notwithstanding Section 632 of the Penal Code, a
4 consumer, or his or her parent, guardian, conservator, or authorized
5 representative, shall have the right to record electronically the
6 proceedings of the individual program plan meetings on an
7 audiotape recorder. The consumer, or his or her parent, guardian,
8 conservator, or authorized representative, shall notify the regional
9 center of their intent to record a meeting at least 24 hours prior to
10 the meeting. If the regional center initiates the notice of intent to
11 audiotape record a meeting and the consumer, or his or her parent,
12 guardian, conservator, or authorized representative, refuses to
13 attend the meeting because it will be tape recorded, the meeting
14 shall not be recorded on an audiotape recorder. However, the
15 regional center shall have the right to electronically record the
16 meeting when notice of intent to record has been given by the
17 consumer or on the consumer’s behalf.

18 SEC. 2. Section 4704.6 is added to the Welfare and Institutions
19 Code, to read:

20 4704.6. Each regional center and each vendor that contracts
21 with a regional center to provide services to consumers shall
22 conspicuously post on its Internet Web site, if any, a link to the
23 department’s Internet Web site page that provides a description of
24 the appeals procedure set forth in this chapter and a department

1 telephone number available for answering consumer and applicant
2 appeals procedure questions.

3 *SEC. 3. Section 4705 of the Welfare and Institutions Code is*
4 *amended to read:*

5 4705. (a) Every service agency shall, as a condition of
6 continued receipt of state funds, have an agency fair hearing
7 procedure for resolving conflicts between the service agency and
8 recipients of, or applicants for, service. The State Department of
9 Developmental Services shall promulgate regulations to implement
10 this chapter by July 1, 1999, which shall be binding on every
11 service agency.

12 Any public or private agency receiving state funds for the
13 purpose of serving persons with developmental disabilities not
14 otherwise subject to the provisions of this chapter shall, as a
15 condition of continued receipt of state funds, adopt and periodically
16 review a written internal grievance procedure.

17 (b) An agency that employs a fair hearing procedure mandated
18 by any other statute shall be considered to have an approved
19 procedure for purposes of this chapter.

20 (c) The service agency's mediation and fair hearing procedure
21 shall be stated in writing, in English and any other language that
22 may be appropriate to the needs of the consumers of the agency's
23 service. A copy of the procedure and a copy of the provisions of
24 this chapter shall be prominently displayed on the premises of the
25 service agency.

26 (d) All recipients and applicants, and persons having legal
27 responsibility for recipients or applicants, shall be informed
28 verbally of, and shall be notified in writing in a language which
29 they comprehend of, the service agency's mediation and fair
30 hearing procedure when they apply for service, when they are
31 denied service, ~~and~~ when notice of service modification is given
32 pursuant to Section 4710, *and upon request*.

33 (e) If, in the opinion of any person, the rights or interests of a
34 claimant who has not personally authorized a representative will
35 not be properly protected or advocated, the local area board and
36 the clients' right advocate assigned to the regional center or
37 developmental center shall be notified, and the area board may
38 appoint a person or agency as representative, pursuant to
39 subdivision (d) of Section 4548, to assist the claimant in the
40 mediation and fair hearing procedure. The appointment shall be

- 1 in writing to the authorized representative and a copy of the
- 2 appointment shall be immediately mailed to the service agency
- 3 director.

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