



# California Association for the Retarded

2000 "O" Street, Suite #250, Sacramento, CA 95814

Phone: (916) 498-1635 - Fax: (916) 498-1385

[www.carforchoice.org](http://www.carforchoice.org)

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## POSITION STATEMENT

### THE FUTURE OF CONGREGATE DAY PROGRAMS AND DEVELOPMENTAL CENTERS

#### BACKGROUND

The number and service needs of people with mental retardation and other developmental disabilities have increased rapidly in the past few years. These increases, along with the state's financial situation, have put a great strain on the current system of providing services to these individuals and their families.

**Day Programs.** Community services, including day programs and especially work activity programs (WAPs), are in crisis because their state rates of reimbursement have been and remain too low. WAPs are non-profit organizations that provide work experience and work-related services to about 12,000 people with developmental disabilities, typically in a sheltered workshop environment. Effective July 1, 2004, the state will transfer administration and funding of WAPs from the Department of Rehabilitation to the Department of Developmental Services under the jurisdiction of regional centers.

Until recently, the state has provided most of the funding for services to people with developmental disabilities who live in the community. The federal Medicaid Home and Community Based Waiver, however, has allowed the state to bring in matching federal funds for those people who prosper in the community but are at risk of being institutionalized. Since 1999-2000, the state's receipt of federal funds has increased by over 102 percent, from \$270 million to \$546 million in the current year.

Unfortunately, the state has chosen to use this remarkable increase in federal funds to replace rather than supplement state funds. As a result, community programs such as WAPs have not been able to benefit. Costs and staff turnover compound as WAPS struggle to continue operating with state reimbursements that are increasingly inadequate and inequitable. The problem with state rates stems from the fact that these rates:

- Have been arbitrarily frozen at 1998-99 levels
- Have been further reduced by 5 percent effective July 1, 2003
- Vary from provider to provider and are not based on actual costs but on base year costs as determined by when a facility first began operation

The Legislative Analyst's *Analysis of the 2004-05 Budget Bill* states that regional centers have considerable discretion in determining how much they will pay a vendor for some nonresidential services and that rate-setting methods vary significantly. The Analyst finds that :

“the rate-setting approach is often complex, inconsistent, potentially costly to the state, and in some cases, inequitable to some providers.”

For work activity programs, state rates do not take into account increases in the cost of doing business including wages, rent, workers compensation, and other fixed costs. While many of these programs have vigorously pursued fund-raising and implemented cost-saving measures to offset the inadequacy of their rates, they have exhausted these alternatives. The only alternative left is reduction or consolidation of services and possible closure.

**Developmental Centers.** At the same time community day programs are endangered because their state rates of reimbursement are too low, developmental centers also are endangered because they are perceived as too costly and/or too big. The State continues to aggressively pursue a policy of phasing out developmental centers based on policies and practices that demand that services be provided in the least costly manner possible.

Developmental center costs are perceived as too high relative to the cost of serving clients in the community. Most developmental center clients require services for medically fragile conditions or behavioral needs, and a small number require forensic services. Today, five state-operated centers serve approximately 3,400 consumers at an annual cost of approximately \$200,000 per consumer. This amount, which represents the total cost of care, is supported half from state funds and half from federal funds.

On the other hand, the state provides community-based regional center services to approximately 190,000 individuals with developmental disabilities, ranging from persons with mild disabilities living at home to those with disabilities that are the same as or similar to those of individuals living in developmental centers. These individuals receive services that are funded from a number of different sources and state departments. These include regional center services funded by DDS as well as a number of other “generic” programs such as long-term care through Medi-Cal, county mental health, In-Home Supportive Services, and California Children Services.

The landmark 1999 Olmstead Supreme Court ruling established criteria for moving people with disabilities who are able and can benefit from community settings out of institutions. It also supported continued developmental center residence for others less able to prosper with community involvement. In 2003, as part of the *Sanchez v. Johnson et. al.* lawsuit (U.S. District Court No. 00-01593(N.D. Cal.) seeking higher community wages, a federal court ruled that California is in compliance with the Olmstead ruling as it pertains to services to people with developmental disabilities under the Lanterman Act. The Olmstead ruling acknowledged that for some of these individuals, developmental centers may indeed provide “the least restrictive environment.”

Notwithstanding this ruling, many individuals and organizations in the developmental disabilities community continue to believe that size is one of the most significant criteria in determining facility quality and ensuring a least restrictive environment. Based on this perception, they have pushed for the replacement of larger institutional or congregate facilities with small community residential facilities.

## **CAR POSITION**

### **The Future of Community Services**

- The quality of a facility or service should be determined primarily by its ability to best meet a client’s needs in a least-restrictive, cost-effective manner rather than by the size and structure of a facility alone. People and their families should be able to choose what is best for them from a wide array of choices.
- In building and strengthening community service options, the State needs to encourage a continuum of services including both congregate as well as inclusive living arrangements and center-based workshops as well as community-integrated employment services.
- It is short-sighted for the state not to maximize federal Medicaid waiver funds to improve and enhance community service programs. Community services for people with developmental disabilities generate those funds, and many of those programs are now in crisis because of lack of adequate funding. It makes sense for the state to supplement rather than withdraw state funds, using all or a substantial portion of federal waiver dollars to stabilize, maintain, and enhance community programs.

### **Adjustment of Work Activity Program Rates**

- In the short-term, the Department of Developmental Services and regional centers should redirect funds and provide emergency rate increases as necessary to ensure that work activity programs are not forced to reduce services or shut down.

- In the long-term, the Department of Developmental Services should move quickly to implement a standard rate system for major categories of services purchased by regional centers, including WAPs. The Governor's proposed budget for 2004-05 states this new system will become effective July 1, 2005.
- In designing and implementing this system, the department should take into account the same cost factors in determining rates for community providers as the factors it takes into account in determining funding for other state services including developmental centers. These would include increases in the basic cost of doing business such as merit salary adjustments, workers' compensation increases, etc. If the new rate system will not result in rates built on current legitimate costs, there is questionable value in changing the current rate structure.

### **The Future of Developmental Centers**

- The State will need to operate developmental centers indefinitely until such time as it has created comparable or better community options.
- While some reduction or consolidation of developmental centers may be inevitable, they remain vital supports to be available to provide emergency back-up placements when community options are unavailable.
- Developmental centers should be geographically located to maximize adequate support to major population centers.
- The state should tap developmental center expertise as a community resource available to regional center clients who reside in the community.
- The State is short-sighted in committing funds to the closure of developmental centers and the creation of new community services for transitioning developmental center clients while at the same time it is failing to adequately fund existing community services such as work activity programs.
- The State needs to address both the development of quality community placements for developmental center clients as well as the upgrading of services for clients who already are being served in the community so that services available to all consumers are of the same quality. It is not tenable to replace one two-tiered system with another.