LAO
65 YEARS OF SERVICE

April 27, 2009

Hon. Hector De La Torre
Assembly Member, 50th District
Room 4016, State Capitol
Sacramento, California 95814

Dear Assembly Member De La Torre:

In a letter dated March 31, 2009, you requested our assistance in determining the savings that could be achieved by expanding the Family Cost Participation Program (FCPP) and Parental Fee Programs (PFP) for Regional Center (RC) services. Specifically, you asked that we estimate the savings that could be achieved by expanding these programs to include all services purchased by RCs for consumers. You also requested our recommendations regarding options available to the Legislature in regard to a cap on the total cost of services for which families would be liable under the programs, and also that we identify any costs and/or policy implications of instituting any changes in the cap.

On April 6, 2009, the administration offered a proposal to update the PFP. Given this development, your committee staff directed us to focus our analysis on the FCPP. Below is our response to your request, as modified by staff.

Background

The Lanterman Developmental Disabilities Act establishes the state's responsibility for ensuring that persons with developmental disabilities, regardless of age or degree of disability, have access to services that sufficiently meet their needs and goals in the least restrictive setting. The state Department of Developmental Services (DDS) contracts with 21 RCs to provide and/or coordinate more than 100 different services for developmentally disabled consumers—including diagnosis and eligibility assessments, counseling, health care, day programs, transportation, and respite care.

Two Cost-Sharing Programs for Certain RC Services. Currently, there are two cost-sharing programs—the PFP and FCPP—that apply to families with children up to age 18 who meet certain requirements. (These programs are mutually exclusive—a child cannot be enrolled in both programs at the same time.) Except for the services included under PFP and FCPP (which we describe below), RC services are generally provided to consumers without their families having to bear a share of the cost.

Parental Fee Program for Children in 24-Hour Facilities. The PFP requirement applies to families with children ages up to age 18 who live in a 24-hour care facility such as a state developmental center, a community care facility, or a medical facility. Parents of children residing in such facilities are assessed a monthly fee that is based on their ability to pay and is adjusted based on family size, family income, and the consumer's age. Currently, the maximum billable amount is $662 per month, or about $7,944 annually. The DDS collects these fees, which are generally used for expanding and initiating new programs. These fees are estimated to generate approximately $1.9 million in 2009-10, with about 670 families participating in the program.

Family Cost Participation for Certain Community Services. The FCPP requires certain families with incomes at or above 400 percent of the federal poverty level (FPL) (about $73,000 for a family of three in 2009) to share in the cost of providing respite, day care, and camping services. This applies to families with developmentally disabled children up to age 18, living at home, and ineligible for Medi-Cal. These families are assessed a share of cost, called the cost participation level, based on a family's size and income using a sliding scale that currently varies from 10 percent to 100 percent of the cost of the services provided. The maximum amount of cost participation is capped and varies by the consumer's age. Currently the maximum family cost participation amount cannot exceed $7,900 annually, slightly less than the PFP maximum. Unlike the PFP, the FCPP does not involve any payment to the state. Instead, the RC informs the family of the financial responsibility the family will bear for payments it must make to the provider. The cost avoidance generated from this program is estimated at about $3.9 million General Fund annually, with over 7,200 consumers currently participating in the program.

The RC caseload is estimated to grow to about 242,500 consumers in 2009-10. However, only a small percentage of these consumers would be included under an expanded FCPP. There are several reasons for this. First, roughly one-half of RC consumers are 18 or older and are therefore ineligible. Similarly, more than one-half of all RC consumers are eligible for Medi-Cal and are therefore ineligible for FCPP. Finally, many families have incomes above the 100 percent to 200 percent of the FPL that makes them eligible for Medi-Cal but below the 400 percent of FPL floor for participation in FCPP.

Fiscal Effects of Expanding the FCPP

Based on our analysis, we estimate that the expansion of the FCPP to all RC services (excluding RC operations and 24-hour care) when fully implemented after about three years could yield ongoing, net annual General Fund savings ranging between about $11 million and $19 million depending on the number of participating consumers. We illustrate our lower-end estimate of savings in Figure 1. We note, however, that our savings estimate could vary by several million dollars, due to a variety of factors we describe later in this analysis.

Figure 1

LAO Estimate of Savings from Expansion of FCPP to All Regional Center Services[a]

Income Group (Percent of Federal Poverty Level)	Share of Cost (Percent)	Number of Consumers	Estimated Program Savings
400	10	2,910	$1,840,284
580	15	1,940	1,840,284
700	25	1,455	2,300,355
740	35	970	2,146,998
780	45	485	1,380,213
820	55	485	1,686,927
860	65	388	1,594,913
900	75	291	1,380,213
920	80	194	981,485
960	90	194	1,104,170
1000	100	388	2,453,712
Totals		**9,700**	**$18,709,554**
Less savings currently generated by existing FCPP			($3,868,000)
Increase in Regional Center workload			($3,220,400)
Adjustment to account for families with two or more developmentally disabled children			($547,170)
Net General Fund Savings			**$11,073,984**

[a] Excludes Regional Center operations and 24-hour care.
Average cost per consumer estimated to be $6,324.
FCPP = Family Cost Participation Program.

Key Fiscal Assumptions and Considerations

Where possible, we based our estimate upon data provided to us by DDS. However, because some data that we requested from DDS was either limited or not available, we had to make several key assumptions to prepare this estimate. We describe these assumptions and other key considerations below.

- ***Recent Expansions of Family Cost Participation.*** Our estimate includes the estimated effects of two recent expansions to the FCPP. Last year, the Legislature expanded the FCPP to (1) include consumers under three years of age, also known as Early Start consumers, and (2) increase the level of family cost participation. For example, families with the highest income levels now pay 100 percent of the cost of certain services instead of 80 percent of these costs. In addition, more families are subject to paying at this higher rate, which now applies to families at or above 1,000 percent of the FPL (about $183,000 for a

family of three) instead of the prior standard of 1,300 percent of the FPL (about $238,000 for a family of three).

- ***Current Program Participants.*** Currently, only certain consumers are subject to the FCPP—approximately 7,200 consumers as of June 30, 2008 according to DDS data (excluding the Early Start consumers described above). The share of cost for consumers currently in FCPP would go up if they receive services in addition to respite, camping, and day care. These additional costs are reflected in our estimate.
- ***New Program Participants.*** Our analysis assumes that between 2,500 and 7,500 additional consumers would be subject to an expanded FCPP, including Early Start consumers and consumers receiving services not currently included in FCPP. Our estimate shown in Figure 1 reflects our assumption that at least 9,700 consumers could be affected by expansion of FCPP.
- ***Average Cost Per Client.*** We assumed that the average cost per client up to age 18 for all RC services is about $6,324 (excluding RC operations and 24-hour care). This is based upon the average cost per client for all RC services among current FCPP participants. However, the average cost per client could be different for the expanded eligibility group. Thus, the actual savings from expansion of FCPP could be higher or lower than we have assumed in our estimate.
- ***Families With Multiple Children With Developmental Disabilities.*** Based on data from DDS on current participants, we assumed that slightly less than 6 percent of participating FCPP families have two or more children receiving RC services. Accounting for such families is important, because families with more than one developmentally disabled child typically pay a lower share of cost. To the extent that the actual proportion of FCPP families with multiple children differs from our assumption of 6 percent, the savings from expanding FCPP could be greater or less than we have estimated.
- ***Savings From Existing Program.*** Our estimate assumes that the existing FCPP achieves about $3.9 million annually in reduced costs. We have excluded this $3.9 million from our estimate to avoid double counting these savings.
- ***Administrative Costs.*** We assume that there will be about $3.2 million in additional RC costs to administer an expanded FCPP program depending on the number of consumers participating in the program. Our estimate of these RC administrative costs is based, in part, on RC costs reported in the 2007 FCPP annual legislative report for administering the existing program.

- ***Effect of Cap on Liability.*** Our estimate assumes that few families will reach the cost liability cap and thus that the impact on savings from an expansion of FCPP will be negligible. However, we were unable to model the effect of the cap due to a lack of available data. More families are likely to reach the cap if the program is expanded to cover all services. Thus, it is possible that the actual savings from the expansion of FCPP could be less than we have estimated due to this factor.
- ***Savings Would Phase In Over Three Years.*** We assume in our estimate that it could take about two years for the RCs to completely implement an expansion of FCPP. Our estimate assumes that reviews of individual placement plans for RC consumers subject to FCPP requirements would be accomplished on an expedited basis in some cases and be completed within two years. Some additional savings would be realized in the third year of implementation.
- ***Distribution of Consumers Across Family Cost Sharing Levels.*** Our analysis assumes that about half of consumers would have a family share of cost of 10 percent to 15 percent. Another 42 percent of consumers would have a family share of cost ranging from 25 percent to 75 percent, while about 8 percent of consumers would have a family share of cost of 80 percent or greater. There is no data available to indicate how recent changes made by DDS in the cost participation schedule will affect the families of consumers. Accordingly, our assumed distribution may not reflect the actual distribution of consumers across family cost sharing levels and our savings estimates could be higher or lower as a result.
- ***Additional Children Could Be Exempted from Requirements.*** "Institutional deeming" is a process by which families can obtain full Medi-Cal health care program eligibility for children who would otherwise be ineligible due to income. Such children are exempt from the FCPP under current regulations. It is possible that expansion of FCPP could prompt more families to go through this Medi-Cal process to avoid increased cost sharing. To the extent that this occurred, the savings from expanding FCPP could be less than we have estimated.

Limiting Parental Cost Liability

You also requested that we discuss the options available to the Legislature in regard to the cap on the total cost of services for which families would be liable under the FCPP. By expanding the FCPP to all RC services, more families would be likely to reach the existing cost liability caps than under the existing FCPP. However, as we noted earlier, insufficient data is currently available for us to determine the number of families currently in the FCPP who have reached this liability cap.

Key Policy Considerations. The Legislature should carefully consider the cap that would apply under an expanded FCPP for two main reasons:

- First, under an expanded FCPP, some families now paying only for certain services would be assessed based on all of their child's RC services. In some cases, these families could be paying the full cost of services due to high family income. For example, it is possible that a family of three with an annual income of about $183,000 could, absent a cap, be liable for as much as $50,000 or more in annual costs. This level of costs could be difficult for some families to bear.
- Second, depending on how high the cap was set, there could be a fiscal incentive, in some cases, for families to seek an out-of-home placement for their child. As we noted earlier, the current liability caps for the FCPP are less than the liability caps in the PFP. This is required under state law. Specifically, Welfare and Institutions Code 4783(e) states that the amount of a family's cost participation "shall be less than the amount of the parental fee that the parent would pay if the child lived in a 24-hour, out-of-home facility." This statutory language is intended to ensure that families do not have a fiscal incentive to place their children in out-of-home facilities based on share-of-cost considerations. A large-scale shift of children from community care to 24-hour care facilities could result in a significant increase in state costs for their care that could exceed the additional savings to the state from lifting the cap on FCPP. Thus, it is in the state's fiscal interest that any change in the FCPP cap maintain the fiscal disincentive for a family to place a child in an out-of-home facility because it may be more affordable.

Consider Exploring a Revised Cap. Under an expanded FCPP, we believe it is reasonable for the Legislature to consider exploring the possibility of changing the existing cost liability cap, which has not been adjusted since the FCPP was established in 2005. The administration has proposed updating the PFP cap. Updating the FCPP cap, in turn, may also be warranted. Additional state savings on the cost of RC services may be possible with an upward revision of the cap. However, as mentioned above, we recommend that any revision be considered in conjunction with the PFP cap to ensure that no fiscal incentive is created to place children in out-of-home facilities.

Other Policy and Implementation Considerations

Federal Approval May Be Required. Based on our discussions with DDS staff, federal approval may be required to expand the FCPP to cover all the services that RCs purchase. For example, federal approval may be required from the U.S. Department of Education before FCPP can be expanded for Early Start consumers.

Conclusion

Please feel free to contact Meredith Wurden at (916) 319-8337 or Shawn Martin at (916) 319-8362 if you have any questions about this analysis.

Sincerely,

Mac Taylor
Legislative Analyst