

RIGHTS UNDER THE LANTERMAN ACT

Services and Supports for People with Dual Diagnosis

Chapter 10

This chapter explains:

- Dual diagnosis
- Mental health services and supports
- Regional Center responsibilities



Chapter 10: Services and Supports for People with Dual Diagnosis

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Services and Supports for People with Dual Diagnosis

This chapter explains dual diagnosis, including services and supports and how your Regional Center and other agencies can help you.

We explain what the law says and important things you should know about the regional center system. This information is based on a state law called the Lanterman Act. We also give you the exact section of this state law where the information is found. You may have to refer to the law to get the services you need. When you see § 4512(a), for example, it means that information comes from the Lanterman Act, section (§) 4512, part a.

If you want to read the Lanterman Act, go to:

<http://www.dds.ca.gov/Statutes/LantermanAct.cfm>

1. What is dual diagnosis?

Dual diagnosis means that you have a psychiatric and a developmental disability.¹ According to DDS, 10% of people with developmental disabilities also have psychiatric disabilities.²

2. How do I get services if I have a dual diagnosis?

You can get services from the regional center and the mental health system. The regional center must help you get the mental health services you need from the mental health agency or Medi-Cal. If it takes a long time, you can get mental health services from the regional center while you wait. Regional centers also have special services for people with dual diagnosis.

The mental health or Medi-Cal services you need must be listed in your IPP. Your IPP team must look at your mental health needs and preferences at your IPP meeting. They must talk about:

- Your medications,
- Any side effects, and
- The date your medications were reviewed last.

¹ Sometimes dual diagnosis means a psychiatric diagnosis and substance abuse.

² DDS website, as of December, 2005

If your IPP team has concerns, they can refer you to the regional center clinical staff, your doctor, or another doctor. All decisions must be written in your IPP file.

3. Does the regional center have to work with county mental health agencies?

Yes. The regional center must work with county mental health agencies to make sure you get the mental health services you need.

Each regional center has a document, called a memorandum of understanding, or MOU for short. The MOU lists the county mental health agencies and the names of people at the regional center and mental health agencies who help people with dual diagnoses in your area.³

The regional center and county mental health agencies work together to develop plans and procedures for:

- Crisis intervention, including 24-hour emergency response, rules for notifying other agencies, and procedures for follow up after a crisis.
- Case conferences and discharge plans for people in psychiatric facilities.
- Training for service providers.

To get a copy of the MOU for your area, contact your regional center or DDS. (The agencies and regional centers send a copy of their MOUs to DDS every year.)

For more information about how the regional center and mental health agencies work together, see:

www.dmh.cahwnet.gov/DMHDocs/docs/letters04/04-06.pdf, and

www.dmh.cahwnet.gov/DMHDocs/docs/letters04/04-06_Enclosure.pdf.

4. What happens if the regional center and county mental health agencies do not agree?

DDS and the Department of Mental Health must help them come to an agreement. At least once a year, the regional center director meets with

³ § 4696.1. All references in this manual are to the Lanterman Act unless it says otherwise. The § symbol means “section.”

mental health agencies to talk about their work together and any unsolved problems. They also talk about their plans for the next year.

5. What mental health services can my child get for a psychiatric disability?

If your child is under 21 and eligible for Medi-Cal, he or she can get many services from the state. The Early and Periodic Screening Diagnostic and Treatment (EPSDT) law says the state must screen children who are eligible for Medi-Cal for certain physical or mental illnesses. They must also give them the medical services they need. EPSDT services can correct or improve the problems found in the screening. Your child may be able to get services even if Medi-Cal does not cover them.⁴

Some of the services your child can get through Medi-Cal are:

- Case management
- Individual, group and family therapy
- Crisis services
- Psychiatric evaluations
- Special day programs

If you ask for Medi-Cal mental health services for your child, but do not get them, call Disability Rights California or OCRA. They can give you advice and help you get the services your child needs.

6. What are wrap-around services and therapeutic foster care?

Children in foster care (or at risk of being in foster care) may be able to get these additional mental health services:

- Wrap-around services are interventions and case management services for a child, the child's family, and people from different agencies who work together as a team. The type and amount of services you get depend on your child's needs.
- Therapeutic foster care means specialized mental health services from foster parents who are trained and supervised to provide these services.

⁴ 42 U.S.C. § 1396d(r) (5): Includes pre-existing needs.

The State of California must screen foster children and provide wrap-around services and therapeutic foster care, if needed.⁵ If you need these services, you may ask:

- your county mental health agency,
- the child's mental health provider or social worker, or
- your regional center service coordinator.

Right now, wrap-around services and therapeutic foster care are only available in some counties. A class action lawsuit, known as the Katie A. case, is trying to get a court to order California to provide these services to all children who need them and who are in, or at risk for being in, the foster care system. For more information about this case, call Disability Rights California.

7. What are therapeutic behavioral services?

Therapeutic behavioral services (TBS) are one-on-one services for people under the age of 21 who are eligible for Medi-Cal. The TBS coach teaches your child new ways to control problem behaviors and how to increase behaviors that help your child succeed. For example, the TBS coach may:

- Remind your child to take a time out when he is upset;
- Helping your child identify his feelings and communicate them to a family member or other significant person in his life;
- Take your child on outings and model positive social interactions.

The TBS coach also works with you to help you learn how to help your child control his problem behavior and teach him behaviors that help him succeed.

Your child can get TBS services in his home, foster home, or group home. He also may be able to get TBS in school, day treatment program, and other places in the community if his behavior in these places is putting his home placement at risk or stopping him from living at home or in a foster home.

Your TBS plan says when, where and what type of behavioral interventions the TBS staff uses with your child.

⁵ Katie A. v. Bontá, 433 F.Supp.2d 1065 (C.D. Calif. 2006); DMH Letter No. 06-05 (7-24-06). Go to: www.dmh.cahwnet.gov/DMHDocs/default.asp?view=letters.

TBS is provided on a short-term basis only. Most children who get TBS have the service for 3-6 months.

8. Can my child get TBS?

Maybe. Children under 21 with serious emotional problems can get TBS if they have full-scope Medi-Cal, already get mental health services, and meet one of these conditions:

- Live in a group home for young people with emotional problems (sometimes called Rate Classification Level (RCL) 12, 13, or 14 group homes),
- Live in a nursing facility for mental health treatment or a Mental Health Rehabilitation Center (sometimes called an institution for mental diseases or IMD),
- Are at risk of living in a group home (RCL 12, 13 or 14), a psychiatric hospital or IMD⁶, or
- Have been hospitalized in the last 2 years for emergency mental health problems.

To get TBS, ask your child's mental health provider, your regional center service coordinator⁷, or contact the county mental health agency yourself.

9. Can a county mental health agency refuse to give me services because I also have a developmental disability?

No. Public mental health agencies must provide mental health services to meet the needs of people with dual and multiple diagnoses.⁸

Medi-Cal mental health services do not cover certain disabilities, like autism and mental retardation. But, if you have a covered psychiatric problem, like mood disorder or pervasive developmental disorder, you can get Medi-Cal mental health services even if you also have autism or mental retardation or another problem that is not covered.

⁶ As of July 1, 2012, regional centers are prohibited from purchasing residential services from IMDs unless there is an emergency. See Chapter 7, Question 35 or Chapter 10, Question 15, for more information about this change.

⁷ Emily Q. v. Bontá, 208 F.Supp.2d 1078 (2001); DMH Letter No. 04-11 (10-21- 04). Go to: www.dmh.cahwnet.gov/DMHDocs/default.asp?view=letters. 10-5

⁸ Welfare & Institutions Code § 5600.2.

For a list of covered psychiatric disorders, see Supplement Q.⁹

10. What can I do if the county mental health agency refuses to give me services?

You can file an appeal.¹⁰ If the mental health agency wants to end or change your services, they will give you a form called a Notice of Action. You have 90 days to file an appeal after you get the Notice of Action. File your appeal within 10 days to keep your services during the appeal.

If you ask for a mental health service but do not get a Notice of Action, you can still file an appeal. There is no deadline to file this appeal.

Ask your regional center service coordinator to help you file an appeal with the county mental health agency. You will have an oral appeal and then a written appeal. The county has 45 days to make a decision.

If you cannot wait 45 days because your life, health or ability to function is in danger, ask for an expedited appeal. If the mental health agency agrees that you need an expedited appeal, they will make a decision in 3 working days. If you have an oral expedited appeal, you do not have to have a written appeal.

11. What happens if the county mental health agency denies my appeal?

Ask for a state fair hearing. In a state fair hearing, the state Department of Social Services (DSS) does an independent review.¹¹ Your fair hearing must cover the same issues as your appeal. Call DSS at: (800) 952-5253.

DSS will give you information and forms to ask for a hearing. After the mental health agency mails their denial, you have 90 days to ask for a state fair hearing. If you want to keep getting your current services, ask for a hearing within 10 days. You can also ask your regional center service coordinator to help you ask for a hearing.

⁹ Cal. Code Regs., tit. 9 § 1830.205(2)(c).

¹⁰ See Cal. Code Regs., tit. 9, §§ 1810.200, 1810.203.5, 1850.205, 1850.207, 1850.208.

¹¹ See Cal. Code Regs., tit. 9, §§ 1810.216.6, 1850.213; Cal. Code Regs., tit. 22, §§ 50951, 50953; CDSS Manual of Policies and Procedures, Division 22. Go to: www.dss.cahwnet.gov/ord/CDSSManual_240.htm; and CDSS State Hearings Division website: www.dss.cahwnet.gov/shd/.

After the hearing, you will get a written decision in 90 days. If you do not like the decision, you can ask for a rehearing. Or, you have one year after the decision to file an appeal in state superior court.

12. What if I have a problem with the quality of my services?

File a grievance with the county for any problem that is not about denying, changing, or ending your services. For example, if your mental health provider keeps you waiting a long time when you have scheduled appointments, you can file a grievance. Your grievance can be oral or written. The county has 60 days to tell you their decision about your grievance.¹²

Your service coordinator can tell you the names of the regional center staff that help consumers with dual diagnoses solve problems.¹³ Ask for help solving your problem with the mental health agency.

13. What if the regional center and mental health agency say they do not have the services I need?

The regional center must develop the services for you.¹⁴ There are not enough specialized community placements, services and supports for people with developmental and psychiatric disabilities. The regional center can ask for proposals or work with mental health agencies or other regional centers to offer special services and placements.¹⁵ In an emergency, the regional center or DDS can give you services directly if no one else can.¹⁶

Ask for an IPP meeting. In the meeting, ask the regional center to develop the services and supports you need. If the regional center does not agree, ask for a state hearing. (See Chapter 12.)

14. Can I still get regional center services if I am in a psychiatric hospital?

Yes. The regional center must make sure you get the services you need when you are in the hospital. It does not matter if your psychiatric problem is your primary disability.

¹² See Cal. Code Regs., tit. 9, §§ 1810.218.1, 1850.205, 1850.206.

¹³ § 4696.1(c).

¹⁴ § 4648(e).

¹⁵ § 4648(e)(1).

¹⁶ § 4648(g).

When you go to the hospital, the regional center meets with the hospital staff as soon as possible. They talk about your treatment plan.¹⁷ They also talk about a discharge plan for the treatment you will need when you leave the hospital.¹⁸

15. Are there special living arrangements for people with a dual diagnosis?

Yes. There are different types of living arrangements and residential programs for people with a dual diagnosis:

- Fred Finch Youth Center programs are residential (live-in) programs for young people with psychiatric disabilities or emotional problems and developmental disabilities. They usually have 12 to 14 beds. Each program has its own school.
There are three programs: one each in Alameda, Solano and San Diego counties. DSS licenses the programs; funding comes from different sources. Many agencies work together to develop and launch the programs.
- Mental Health Rehabilitation Centers (MHRCs) offer support and rehabilitation. They are an alternative to a state hospital or other 24-hour care facility. Some MHRCs are designed for people with a dual diagnosis. One of these is Redwood Place in Castro Valley. Other regional centers are developing similar facilities. The Department of Mental Health licenses MHRCs.
- Institutes for Mental Diseases (IMDs) are large, locked intermediate care facilities for people with severe mental illness. There is a 30-bed IMD in Duarte for people with a dual diagnosis.

In 2012, the legislature passed a law which prohibits regional centers from purchasing residential services from IMDs unless there is an emergency. Once you are admitted, the regional center must, with 30 days, complete an assessment to determine the services and supports needed for stabilization and develop a plan to you back to the community. The law also places a 180-day time limit on how long the regional center can keep you in an IMD.¹⁹

¹⁷ § 4696.1(b)(3).

¹⁸ § 4696.1(b)(4).

If you were admitted to an IMD before July 1, 2012, the regional center must complete a “comprehensive assessment” prior to your next scheduled IPP meeting. The assessment must discuss the services and supports you need to move back to the community and include a timeline for developing those services if they do not already exist. An advocate may attend your IPP meeting unless you say you do not want them there.²⁰

- Some Community Care Facilities (CCFs) are specially designed for people with mental health needs. Many regional centers have 2-4 bed CCF facilities. There are not enough of these facilities.

For more about what to do if the regional center says these facilities are not available, see Question 13 and Chapter 7, Question 29.