

DEPARTMENT OF DEVELOPMENTAL SERVICES

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March 2, 2023

TO: REGIONAL CENTER EXECUTIVE DIRECTORS

SUBJECT: MUTUAL CONSENT AND GOOD FAITH LETTER

The State's Budget Trailer Bill for developmental services, SB 188 (Chapter 49, Statutes of 2022) amended Section 4701(k) of the Welfare and Institutions Code, effective March 1, 2023. This amendment creates a definition of mutual consent. When mutual consent is affirmatively documented, it can replace the need to provide a formal Notice of Action. Section 84 of SB 188 also provides authority for implementation of specific provisions pursuant to written directives from the Department of Developmental Services (Department).

When there is affirmative documentation of mutual consent, the regional center does not have to send a Notice of Action. The mutual consent requirement applies to all regional center decisions regarding reductions, terminations, or changes to services specified in an individual program plan or denial of the initiation of a service or support requested for inclusion in the individual program plan. Mutual consent is defined as an agreement that affirmatively is documented in any of the following:

- i. A signed IPP that reflects the regional center's proposal or denial,
- ii. A signed list of services reflecting the regional center's proposal or denial, or
- iii. Other written communication from the recipient regarding the regional center's proposal or denial

OR

A good faith belief by the regional center that the recipient agrees with the proposal or denial, which is followed by regional center sending a confirming good faith belief letter to the recipient within five (5) business days. The good faith belief letter must contain:

- i. Factual basis for the good faith belief that an agreement exists,
- ii. The action that the regional center intends to take,
- iii. The reason(s) for that action,
- iv. The availability of an appeals process and a link to the Department's website with information about the appeals process,
- v. How to express disagreement,
- vi. How to get information about the appeal process, and
- vii. The appeal request form

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Regional centers must follow the template for the good faith belief letter, which is available in the Forms section of the Department's Lanterman Act appeal process website: <https://www.dds.ca.gov/general/appeals-complaints-comments/fair-hearings-complaint-process/>.

If regional center is informed that there is a disagreement about a proposed decision, a notice of action must be sent within five business (5) days. Revised notice of action and appeal request forms also are found in Forms section of the Department's Lanterman Act appeal process website at the link above.

If you have any questions, please contact the Office of Community Appeals and Resolutions at (916) 245-8220 or CommunityResolutions@dds.ca.gov.

Sincerely,

Original signed by:

PETE CERVINKA
Chief, Data Analytics and Strategy

Enclosure

cc: Regional Center Administrators
Regional Center Community Services Directors
Regional Center Directors of Consumer Services
Association of Regional Center Agencies
Brian Winfield, Department of Developmental Services
Ernie Cruz, Department of Developmental Services