

# RIGHTS UNDER THE LANTERMAN ACT

## ***Self-Directed Services (SDS) Program***

**Note:** The SDS Program has been delayed. Check with your local regional center to see if SDS is available in your area.

### **Chapter 11**

This chapter explains:

- The SDS service model
- Who is eligible
- How your SDS budget will be determined
- Who can help you with SDS
- How you can find and get services and supports
- How to return to regular regional center services



# Chapter 11: Self-Directed Services (SDS) Program

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# Self-Directed Services Program

*This chapter explains the new Self-Directed Services (SDS) program. It describes how you get and use your budget to find, buy, and manage your services.*

*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:  
[www.dds.cahwnet.gov/Statutes/LantermanAct.cfm](http://www.dds.cahwnet.gov/Statutes/LantermanAct.cfm)*

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## 1. What is the Self-Directed Services (SDS) Program?

SDS is a new program that gives you a specific amount of money to buy the services in your IPP.<sup>1</sup> It is *self-directed* because **you** choose the services and supports that can help you meet your IPP goals.

The SDS Program is different from traditional programs because it gives you more freedom and control. You plan, get, keep, and manage the services that meet your needs and your IPP goals in the most inclusive community settings possible.<sup>2</sup>

## 2. Can I get SDS now?

No. SDS is not available yet. Ask your regional center to tell you when the program starts. Or go to the DDS website [www.dds.cahwnet.gov/SDS/Index.cfm](http://www.dds.cahwnet.gov/SDS/Index.cfm).

Before the SDS program can start:

- *The Independence Plus Self-Directed (IPSD) Waiver<sup>3</sup> must be approved. (See Question 3.)*
- DDS must approve regulations to implement procedures for the SDS Program.<sup>4</sup>

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<sup>1</sup> See DDS' Self-Directed Services Overview at [www.dds.cahwnet.gov/SDS/Overview.cfm](http://www.dds.cahwnet.gov/SDS/Overview.cfm).

<sup>2</sup> § 4685.7(b)(6).

<sup>3</sup> The Independence Plus Self-Directed Waiver is a federal waiver (section 1396n of Title 42 of the United States Code). See § 4648.7(a)(4).

**Important!** You can ask your regional center to notify you when the program is ready.

### **3. What is the IPSD Waiver?**

The IPSD (*Independence Plus Self-Directed*) is a federal waiver to the state's Medicaid plan. If you need long-term supports and services because of your developmental disability, this program lets you and your family (if appropriate) use self-directed services to control your own health and well-being by using SDS services.<sup>5</sup>

### **4. Can I get SDS in my area?**

Yes. Once the program is in full effect, SDS will be available in every regional center, including yours.<sup>6</sup>

### **5. Do I *have to* participate in SDS?**

No. The program is voluntary. If you decide to participate, you can leave the program at any time. Your regional center cannot make you participate in SDS to get services or supports.<sup>7</sup>

### **6. Where can I get information about SDS?**

DDS can give you information about SDS. DDS also makes sure that regional centers understand how SDS works, why it is important, and your rights if you apply for SDS.

When SDS starts, regional centers will hold meetings to give consumers and their families information about the SDS Program. If you are interested in SDS, the regional center must give you a complete orientation before you sign up for the program.<sup>8</sup>

### **7. How do I know if I am eligible for SDS?**

To be eligible for SDS, you must:<sup>9</sup>

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<sup>4</sup> § 4685.7(a).

<sup>5</sup> § 4685.7(b)(5).

<sup>6</sup> § 4685.7(a).

<sup>7</sup> § 4685.7(c).

<sup>8</sup> § 4685.7(d).

<sup>9</sup> § 4685.7(i).

- Be at least 3 years old,
- Have a developmental disability,<sup>10</sup> and
- Agree to the rules and conditions of the program.

You cannot get SDS while you are in a licensed long-term health care facility<sup>11</sup> or residential facility.<sup>12</sup> (See *Question 8 below.*)

You cannot get SDS if you receive day program<sup>13</sup> or habilitation services.<sup>14</sup>

## 8. Can I get SDS if I live in a residential facility?

No, but you can tell your regional center that you want to be in the SDS Program. Ask for a person-centered planning meeting to talk about leaving the facility and transitioning to SDS. After you make this request, the regional center has 60 days to start your person-centered planning services.

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<sup>10</sup> See Chapter 2 for more information.

<sup>11</sup> Long term health care facilities include:

- Adult Day Health Care Programs
- Congregate Living Health Facilities,
- Nursing Facilities (NF),
- Intermediate Care Facilities (ICF),
- Intermediate Care Facilities/Developmentally Disabled (ICF/DD),
- Intermediate Care Facilities/Developmentally Disabled-Habilitative (ICF/DD-H), or
- Intermediate Care Facilities/Developmentally Disabled-Nursing (ICF/DD-N).

Cal. Code Regs., tit.17 § 54302(a)(44).

<sup>12</sup> A residential facility is a licensed community care facility defined by the Health and Safety Code Section 1502(a)(1), (4), (5) or (6). It can also be a licensed residential care facility for people over 60 (see Health and Safety Code Section 1569.2). Cal. Code Regs., tit.17, § 54302(a)(55).

<sup>13</sup> Day programs have hourly or daily services, but they do not provide 24-hour service. Services are delivered in the community, not in a developmental center. Community-based day programs can be: activity centers, adult development centers, behavior management programs, independent living programs, infant developmental programs, and social recreation programs. Cal.Code Regs., tit.17 § 54302(a)(16).

<sup>14</sup> Habilitation services are services in the community for adults with developmental disabilities. They include services provided under the Work Activity Program and the Supported Employment Program. Habilitation services prepare and keep these adults at their highest level of vocational functioning, or to prepare them for referral to Vocational Rehabilitation services. Cal. Code Regs., tit.17 § 54302(a)(34).

## 9. Does the SDS Program have rules?

Yes. If you want SDS, you have to accept these rules:<sup>15</sup>

- You must have an orientation before you sign up for the program.
- You can only use services in the SDS Program if you cannot get generic services. Examples of generic services include Medi-Cal, In-Home Supportive Services (IHSS) or services from the Department of Rehabilitation.
- You agree to use only the services needed to meet your IPP goals. (See *Question 13.*)
- You stay within your budget amount.
- You must choose a financial management services provider to manage your finances. This person can be paid or designated, which means someone who is not paid. (See *Questions 32-36.*)

## 10. What should my IPP say?

You develop your IPP (Individual Program Plan) during your person-centered planning process.<sup>16</sup> Your IPP helps you participate in your community and live an independent, normal life in a healthy environment.<sup>17</sup> Your IPP should say:

- What you need, want, and choose,
- Your goals and objectives, and
- The services and supports you need to reach your goals.

Your IPP should help you live as independently, productively, and normally as possible. Your IPP should be created in a person-centered planning process. See Chapter 4 for more information about your IPP.

## 11. How do I sign up for SDS?

Talk to your regional center service coordinator. Tell them that you want to be part of the SDS Program. The regional center will contact you to set up your orientation. (See *Question 6.*)

## 12. Can I get SDS if I am not on Medi-Cal?

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<sup>15</sup> § 4685.7(i)(4)(A)-(F).

<sup>16</sup> § 4685.7(k).

<sup>17</sup> § 4646(a).

Yes. The SDS Program has 2 parts:

- The state-funded program, and
- The IPSD Waiver program.

If you do not qualify for Medi-Cal, you can participate in the state-funded part of SDS. You still have to meet all the other requirements for the IPSD waiver program.<sup>18</sup>

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<sup>18</sup> § 4685.7(j).

### **13. What services can I get under SDS?**

SDS services include:<sup>19</sup>

- advocacy
- behavior intervention
- help communicating
- community living support
- community participation
- crisis intervention
- environmental accessibility adaptations
- financial management
- family support
- housing access
- home and personal care
- home health aide
- training and education
- integration therapy
- nutritional advice
- services you choose
- personal emergency response
- personal skill development
- recreation and leisure
- respite
- skilled nursing
- socialization
- special medical equipment and supplies
- special therapeutic services
- supported employment and services to prepare you for work
- supports broker function and services
- transportation
- transition training and education
- vehicle adaptations

### **14. Can I direct some of my services but not others?**

No. In the SDS Program, you direct *all* of your services. But you can get help to manage your services and supports. See Question 28.

### **15. What is my individual budget?**

An individual budget is the amount of money you get to pay for your services and supports in your IPP.

### **16. How much money can I get?**

The regional center gives you 2 budget amounts to choose from:<sup>20</sup>

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<sup>19</sup> § 4685.7(b)(6)(A)-(X).

- The first budget is 90 percent of the average cost of your services for the last 2 years.<sup>21</sup>
- The second budget is 90 percent of the average cost of services for consumers like you (not in the SDS Program) for the last 2 years. “Consumers like you” means they have a similar age, living situation, disability, skills, etc. This budget uses information from the California DDS information system.<sup>22</sup>

Once you choose your budget, you will get the same amount of money every year until you set a new budget.<sup>23</sup>

### **17. What if I do not agree with my budget amount?**

You can appeal to the executive director of your regional center. (See Supplement Y for the name and address of the executive director of your regional center.) You have 30 days to do this after you get your budget. The executive director has 10 working days to make a decision and give it to you in writing.

If you do not agree with the executive director’s decision, you can appeal to the Director of DDS. You have 15 days to file an appeal with DDS after you get the regional center’s decision. DDS will make the final decision.<sup>24</sup>

### **18. How is the money in my budget split up?**

The money in your budget is split into these categories:

- Community living
- Health and clinical services
- Environment and medical supports
- Training and education
- Employment
- Transportation<sup>25</sup>

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<sup>20</sup> § 4685.7(e).

<sup>21</sup> § 4685.7(e)(1)(A).

<sup>22</sup> § 4685.7(e)(1)(B).

<sup>23</sup> § 4685.7(e)(2).

<sup>24</sup> § 4685.7(e)(6).

**19. Can I use money from one category to pay for something in another category?**

Yes. You can spend up to 10% of the money for one category on services in other categories. If you want to spend more than 10% on a different category, you must ask the regional center for approval.<sup>26</sup> The regional center can only say no if it is needed to protect your health and safety.<sup>27</sup>

**20. How do I know how much money I have?**

You will get a letter every month that says how much money you have in each category. The letter also tells you how much you spent the last month and the total amount of money left in your budget.<sup>28</sup>

**21. Can I buy a house or a car?**

No. You cannot buy a house or car with SDS money.

**22. Can I use the money to start a small business?**

Yes. See Chapter 8.

**23. Can I use the money to pay for advocacy services?**

Yes. Advocacy services help you exercise your rights to get generic services and benefits. You can pay for advocacy services to help you get generic services if you cannot get other types of advocacy.<sup>29</sup>

See Chapter 5 for more about advocacy.

**24. How often can I get a new budget?**

Once you pick a budget, that budget is available to you every year until you need to change the budget amount. Your budget amount cannot be calculated more often than once in a 12-month period.<sup>30</sup> The regional center will ask you

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<sup>25</sup> § 4685.7(e)(3).

<sup>26</sup> § 4685.7(e)(4).

<sup>27</sup> § 4685.7(e)(4).

<sup>28</sup> § 4685.7(n).

<sup>29</sup> § 4685.7(b)(7).

<sup>30</sup> § 4685.7(e)(2).

each year if there is a reason to change your budget. This process is explained in the regulations.<sup>31</sup>

## **25. What if I suddenly need more money?**

Ask your regional center for help. DDS has a *risk pool fund* for people in SDS who have unexpected needs. Part of this money goes to the regional centers.

The amount of money in the DDS risk pool fund is 5% of the prior service costs for consumers in the SDS Program.<sup>32</sup>

## **26. Can I get money from the risk pool fund?**

Yes, but only if there is a big change in your needs for service and supports that you did not know about when you agreed to your budget amount. You may, for example, be able to get money from this fund if you need to move quickly, become ill, or are seriously injured.<sup>33</sup>

## **27. Can I use risk pool money more than once?**

Yes.<sup>34</sup> You can use risk pool money more than once as long as you can show that there was a big change in your service needs after you got your budget.<sup>35</sup>

## **28. How does the SDS Program help me to be self-directed?**

The SDS Program has 2 special services to help you manage your services and supports:

- Supports brokerage, and
- Financial management services.

## **29. What is supports brokerage?**

Supports brokerage services help you:<sup>36</sup>

- Make decisions about your budget

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<sup>31</sup> § 4685.7(e)(5).

<sup>32</sup> § 4685.7(f)(1).

<sup>33</sup> § 4685.7(f)(3).

<sup>34</sup> § 4685.7(f)(4).

<sup>35</sup> § 4685.7(f)(3).

<sup>36</sup> § 4685.7(b)(2).

- Find, get, and plan services that are in your IPP
- Figure out your needs now and in the future, and how to meet those needs
- Go with you to the person-centered planning meeting and help you create your IPP

You get supports brokerage services from a supports broker.

### **30. Who can be my supports broker?**

You choose and direct your own broker.<sup>37</sup> The person you hire or designate must be able to handle the responsibilities of being a supports broker.<sup>38</sup>

The supports broker can be:

- A friend or family member that you choose,
- A broker that you hire, or
- You can be your own broker

### **31. What is the difference between a hired broker and a designated broker?**

You pay a hired supports broker. You do not pay a designated broker. If you or your parents decide to be the supports broker, you or your parents can only do so as a designated broker (non-paid).

### **32. What are financial management services (FMS)?**

FMS help you manage your money and figure out how much you have spent on each service. Financial management services include:<sup>39</sup>

- Paying your bills.
- Help with hiring and payroll process, such as withholding taxes, unemployment insurance, and other deductions.
- Figuring out your providers' pay rate and benefits.
- Tax accounting.
- Expense reports.

### **33. Do I have to have financial management services (FMS)?**

Yes. You can hire a FMS provider, or designate someone, but your FMS provider **must** be a regional center vendor.<sup>40</sup> This means anyone who you want to be your FMS provider must be a regional center vendor.

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<sup>37</sup> § 4685.7(b)(3).

<sup>38</sup> § 4685.7 (i)(4)(F).

<sup>39</sup> § 4685.7(b)(1).

<sup>40</sup> § 4685.7(q).

### **34. Do my other service providers have to be regional center vendors?**

No. Your FMS provider is the only one who must be a regional center vendor. Your other providers must have the licenses and certifications they need, but they do not have to be regional center vendors.

### **35. What is the difference between a hired and a designated FMS provider?**

You pay a *hired* FMS provider. You do not pay a *designated* FMS provider. In other words, if you designate someone you know to be your FMS provider, you cannot pay him or her.

### **36. Can I be my own FMS provider?**

Yes. You can be your own FMS provider. You can also choose a friend or family member to be your FMS provider. You or your parents can only be an FMS provider on a designated basis. That means you or your parents cannot be paid to be an FMS provider.

***Important!*** Your FMS provider must show that they qualify and can handle the responsibilities that come with the job.<sup>41</sup>

### **37. Can I name an authorized representative to help me?**

Yes. If you need help to implement your IPP, you can choose someone to be your authorized representative to help you. Your authorized representative must:<sup>42</sup>

- Show that they understand what you need and want.
- Agree to follow the SDS Program requirements.
- Be at least 18 years old.
- Be approved by you.<sup>43</sup>

### **38. Can I get a criminal background check of the people I want to hire as service providers?**

Yes. Ask the regional center to check the criminal history of the people you want to hire. You do not have to pay for a background check.<sup>44</sup>

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<sup>41</sup> § 4685.7(i)(4)(E).

<sup>42</sup> § 4685.7(m)(1)-(4).

<sup>43</sup> § 4685.7(m).

<sup>44</sup> § 4685.7(r)(l).

### **39. Do I have the right to a fair hearing in the SDS Program?**

Yes. You have the same fair hearing rights under the SDS Program as you do with other Lanterman Act services. The only difference is that DDS has the final say in the amount of money in your budget. (See *Question 19.*)

For more on fair hearings, see Chapter 12.

### **40. What if the regional center says I am no longer eligible for SDS?**

If the regional center decides that you are no longer eligible for SDS, they must send you a letter called notice of action. The notice of action must say that you are not eligible and why you are not eligible. The regional center also must send you a notice that tells you about your right to a fair hearing.<sup>45</sup>

For more about fair hearings, see Chapter 12.

If you ask for a hearing, you can keep getting all your SDS services. But you must ask for the hearing within **10 days** of getting the regional center's notice of action.<sup>46</sup> This right to continue to get services is often called *aid paid pending*. (See *Chapter 12.*)

### **41. Can I reapply for SDS?**

Yes. You can reapply for SDS after 1 year.<sup>47</sup> Tell the regional center about the changes that make you eligible for SDS.

### **42. Can I quit the SDS Program?**

Yes. The regional center must help you switch from SDS to the former regional center services. The regional center must help you make a new IPP that says what services and supports you need. They must also make sure that you get all the services you need during your transition. In other words, there can be no gaps in your services during the transition out of the SDS program.<sup>48</sup>

### **43. If I quit SDS, can I get it again?**

Yes. If you are eligible, you can go back to SDS after 1 year. (See *Questions 9 and 11.*)

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<sup>45</sup> § 4685.7(o)(1).

<sup>46</sup> § 4715.

<sup>47</sup> § 4685.7(o)(2).

<sup>48</sup> § 4685.7(o).

#### **44. If I get SDS, am I still part of the Family Cost Participation Program?**

No. The Family Cost Participation Program is a way for the regional center to decide how much each family should pay for services. If you are in the SDS Program, you are not part of the Family Cost Participation Program.<sup>49</sup>

For more information, see Chapter 1, Question 23.

#### **45. What is the Self-Determination Pilot project?**

The Self-Determination Pilot project is similar to SDS. But because it was completely state-funded, the only rule in the Self-Determination Pilot project is that services and supports must be legal and related to your developmental disability.

The SDS Program, on the other hand, is federally funded. It must follow federal rules, and has federal oversight.

#### **46. If I am in the pilot project, do I have to switch from my pilot project to SDS?**

No. You can still get your services from the self-determination pilot project.<sup>50</sup>

If you want to switch to SDS, you must meet SDS requirements. (See *Questions 7 and 9.*)

#### **47. Does DDS have to file a report with the Legislature about SDS?**

Yes. Every year, DDS must give the Legislature a report about SDS. For each regional center, DDS must report:

- How many people participate in SDS.
- The types of services and supports paid for with SDS funds.
- The average budget and the range of budgets.
- How many people used the risk pool fund, how much money they used and the types of services they bought.
- How satisfied consumers are with SDS compared with traditional services.
- How many people say that the regional center respects their choices and decisions.

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<sup>49</sup> § 4685.7(s).

<sup>50</sup> § 4685.7(t).

- How many people say they can find and hire qualified providers.
- How many people appealed their budgets and the results of the appeals.
- How many people asked for a fair hearing and the results of the hearings.
- How many people quit SDS and why.
- How many people stop being eligible for SDS and why.
- What is keeping people from participating in SDS and recommendations to improve the program.
- The average amount of money spent by people not in SDS compared to people in SDS.<sup>51</sup>

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<sup>51</sup> § 4685.7(v)(1)-(13).