

DEPARTMENT OF DEVELOPMENTAL SERVICES

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September 20, 2022

TO: REGIONAL CENTER EXECUTIVE DIRECTORS

SUBJECT: ATTENDANCE OF ATTORNEYS IN THE APPEAL PROCESS

This supersedes the Department's August 11, 2022 directive regarding the appearance of attorneys, to align with the use of the term "attend" in statute.

The State's Budget Trailer Bill for developmental services, SB 188 (Chapter 49, Statutes of 2022) adds Section 4705.5 to the Welfare and Institutions (W&I) Code, effective October 1, 2022. This new section makes changes to when attorneys can attend informal meetings, mediations, and fair hearings. It also defines the timeframes for advance notice of an attorney attending these events. Section 84 of SB 188 also provides authority for implementation of specific provisions pursuant to written directives from the Department of Developmental Services (Department).

Effective October 1, 2022, this new law prohibits regional centers and the Department from having an attorney attend an informal meeting, mediation, or fair hearing, unless the claimant is an attorney licensed to practice law in California, or will have an attorney licensed to practice law in California in attendance.

Effective October 1, 2022, if the claimant or their authorized representative intends to have an attorney attend a mediation or a fair hearing, then the claimant or their authorized representative must provide notification to the regional center and the hearing office of that fact at least five (5) days prior to mediation, and fifteen (15) days prior to a fair hearing.

Effective October 1, 2022, the hearing office shall notify the parties, in advance of a fair hearing, that the hearing officer is allowing an attorney to attend in the interest of justice.

Regional centers should adjust their internal procedures and practices to comply with the statute by October 1, 2022. All appeal process informational materials provided by a regional center shall be updated accordingly, no later than September 30, 2022.

These statutory changes do not prohibit a claimant's attorney from *assisting* in such matters, even if they do not *attend*. Similarly, a regional center attorney or a Department attorney may *assist* in such matters. They may not *attend*, except as described above.

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SB 188 also makes other significant changes to the appeals process, which will be addressed in future directives. If you have any questions, please contact me at (916) 654-1897.

Sincerely,

Original Signed by:

PETE CERVINKA
Chief, Data Analytics and Strategy

cc: Regional Center Board Presidents
Regional Center Administrators
Regional Center Community Services Directors
Regional Center Directors of Consumer Services
Amy Westling, Association of Regional Center Agencies
Nancy Bargmann, Department of Developmental Services
Brian Winfield, Department of Developmental Services
Ernie Cruz, Department of Developmental Services