

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

CLAIMANT,

vs.

EASTERN LOS ANGELES REGIONAL
CENTER,

Service Agency.

OAH No. 2018070631

DECISION

Carmen D. Snuggs, Administrative Law Judge (ALJ), Office of Administrative Hearings, State of California, heard this matter on September 11, 2018, in Alhambra, California.

Jacob Romero, Fair Hearing/HIPAA Coordinator, represented Eastern Los Angeles Regional Center (ELARC or Service Agency). Claimant,¹ who was not present, was represented by his mother. Zenith Hernandez, an interpreter, was present at the hearing and provided Spanish interpretation services for Claimant's mother.

Oral and documentary evidence was received. The record was closed and the matter was submitted for decision on September 11, 2018.

¹ Initials and family titles are used to protect the privacy of Claimant and his family.

ISSUE

Shall ELARC continue to fund intensive Applied Behavioral Analysis (ABA) services, provided to Claimant by Autism Learning Partners, at a rate of 18 hours per week?

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EVIDENCE CONSIDERED

The Service Agency's Exhibits and Witnesses: Service Agency's exhibits 1-21, Jocelyn Quintanilla, Service Coordinator and Randi Bienstock, Psy.D.

Claimant's Exhibits and Witnesses: Exhibit A and Claimant's mother.

FACTUAL FINDINGS

1. On September 11, 2018, the Service Agency sent a Notice of Proposed Action to Claimant's mother indicating that it had denied Claimant's request for the Service Agency to continue to fund Claimant's intensive ABA² services with Autism Learning Partners (ALP), at the rate of 18 hours per week. Claimant timely filed a request for fair hearing and this matter ensued.

2. Claimant is a 10 year-old male consumer of the Service Agency who is eligible for services due to autism and intellectual disability diagnoses. In addition, Claimant suffers from Optic Nerve Hypoplasia; as a result, he is legally blind. Claimant is currently under the care of an ophthalmologist, as well as a neurologist, endocrinologist, gastrologist, and dentist for various health conditions. He lives in the family home with his parents and three siblings.

3. The Service Agency currently funds 30 hours per month of in-home respite

² ABA therapy is an evidenced-based treatment intervention used to treat individuals with autism spectrum disorder in order to decrease maladaptive behaviors.

services and 18 hours per week of intensive ABA services provided by ALP. Claimant also receives 283 hours per month of in-home supportive services and is enrolled in Medi-Cal managed care.

4. The Service Agency follows Purchase of Service Guidelines for Behavior Intervention services (Guidelines) when authorizing consumers' and families' service requests. (Ex. 7, p. 1.) It will consider the purchase of behavior intervention services only when no other source of payment is available; therefore, consumers and families are expected to use available generic resources such as Medi-Cal, for the provision of services. The Guidelines, which were finalized on October 24, 2016, define intensive ABA programs as those "designed to implement and evaluate one-to-one instruction intended to produce significant improvements in social behavior and skill acquisition." (Ex. 7, p. 3.) Pursuant to the Guidelines, intensive ABA services may be authorized for up to 20 hours per week for a period of two years. The Service's Agency's Psychology Consultant reviews all progress reports and provides a clinical opinion regarding the necessity of the services. Evaluation of the progress toward stated goals and objectives occurs no less than every four months, and continued funding is dependent upon documented progress in the achievement of the stated objectives, and the "successful and continued participation of the parents/caregivers in implementing the program." (Ex. 7, p. 3.)

5a. Claimant has received intensive ABA therapy services from ALP³ since 2013. On July 12, 2013, ALP conducted a Functional Behavioral Assessment. ALP determined that Claimant had several skill deficits, including off-task behaviors, limited functional communication, safety awareness, social, and self-help skills. Claimant's maladaptive

³ ALP was formally known as Pacific Child & Family Associates. It is not clear from the record when Pacific Child & Family Associates became known as ALP. The ALJ will refer to Claimant's ABA provider as ALP for ease of reference.

behaviors included tantrums and self-injurious behavior.

5b. ALP set various behavior reduction and replacement behavior goals to decrease Claimant's tantrums and task avoidance, and to address Claimant's deficits. ALP's treatment plan also included educating and training Claimant's parents on ABA strategies. ALP initially set four replacement behavior goals for Claimant⁴ and three caregiver goals.⁵

5c. ALP recommended that Claimant receive ABA therapy at a rate of 18 hours per week of direct intervention, with 8 hours per month allocated for supervision and program development, and two hours per month allotted to team meetings.

6. ALP prepared 11 progress reports on the following dates: November 13, 2013; March 13, 2014; July 18, 2014; November 17, 2014; February 16, 2015; July 27, 2015; December 1, 2016; July 15, 2017; November 15, 2017; and July 20, 2018. In the reports, ALP noted whether Claimant and/or his parents or caregivers mastered a goal. When a goal was mastered, maintenance of the goal was recommended and a new goal was established. If a goal was not mastered, ALP noted the progress made and whether work would continue toward the goal. In some instances, the goal was discontinued or modified.

7a. In its July 15, 2017 progress report, ALP noted that barriers to Claimant's progress in meeting established goals included staff changes, parent cancellations, and

⁴ Claimant's replacement behavior goals included: Claimant will be able to mand (request) a desired item or activity eight out of 10 opportunities for two consecutive weeks; and Claimant will be able to choose an item when presented with two options 8 out of 10 times for two consecutive weeks.

⁵ One of the initial caregiver goals was to redirect Claimant to mand for the item or activity he wanted access to 8 out of 10 times for two consecutive weeks.

Claimant's mother's injury, which prohibited her participation in the ABA sessions.

7b. The July 15, 2017 progress report lists 15 goals for Claimant including nine receptive/expressive communication goals (i.e., manding in full sentences, responding to his name, and following two-step instructions), one pragmatic communication goal (sharing), and five self-help goals (teeth brushing, showering, flexibility in wearing different items of clothing, dressing, and walking with a cane).

7c. Six of the communication receptive/expressive goals were new; therefore, no progress was noted. Claimant made progress with manding in a full sentence and following two-step instructions, but had not mastered those skills. ALP placed the goal of answering questions beginning with the word "where" on hold in order to work with Claimant on "prerequisite" goals. The goal of sharing was placed on hold so that ALP providers could work with Claimant on other skills. Showering and dressing were new goals; therefore, no progress was noted. Claimant made progress with brushing his teeth, but had not mastered that goal. ALP placed on hold Claimant's goal of walking with a cane, until Claimant's caregiver could confirm whether Claimant's use of a cane was appropriate. In addition, ALP discontinued the goal of flexibility in wearing different items of clothing because Claimant was observed tolerating the clothing that he had previously refused to wear for any length of time.

7d. Claimant's Clinical Supervisor did not observe Claimant engaging in excessive maladaptive behaviors. However, Claimant's parents reported that Claimant engaged in tantrum behavior a minimum of once or twice per week for less than five minutes. ALP noted that the intensity and frequency of this behavior was "developmentally appropriate." (Ex. 17, p. 12.) ALP planned to collect data regarding any maladaptive behaviors when the behavior occurred during Claimant's sessions.

7e. ALP included three new caregiver goals in its July 15, 2017 report. ALP also discontinued the caregiving goals of a) providing Claimant choices when denying access to

a preferred item, and b) placing Claimant's maladaptive goals on extinction, due to inconsistency in data collection and the unavailability of Claimant's caregiver. Moreover, because Claimant's mother was unable to consistently participate in the ABA therapy sessions due to an injury, the goal of increasing Claimant's parents' participation in Claimant's sessions was placed on hold.

7f. ALP recommended that Claimant continue ABA therapy sessions at the rate of 18 hours per week, with 8 hours per month allocated for supervision and program development, and two hours per month allotted to team meetings.

8. Randi Bienstock, Psy.D., has worked as a psychologist at ELARC since 1999, and as a consulting psychologist at ELARC since 2006. She obtained her Master's and doctoral degrees in psychology, with a specialty in neuro-developmental disabilities in children. In 2013, Dr. Bienstock also completed coursework for behavior analysis certification.

9a. Dr. Bienstock did not evaluate Claimant. She did, however, review the 11 progress reports prepared by ALP. She opined that Claimant has made "considerable" progress in relation to his original goals, including making requests using full sentences. Dr. Bienstock testified that she became concerned about the ABA interventions provided by ALP after reviewing the July 15, 2017 progress report. She noted that the majority of the new goals established by ALP were communication goals, and that those goals were added to Claimant's treatment plan without ELARC review. Dr. Bienstock also expressed concern that the goals set by ALP could be considered academic goals, and the goal of following two-step instructions may be a duplicate goal if Claimant was receiving speech therapy in school. She also questioned the addition of the goal of "tacting" (labeling items). Dr. Bienstock explained that tacting is usually a prerequisite skill to manding, and ALP reported that Claimant was able to mand using full sentences.

9b. Dr. Bienstock also noted that ALP developed several caregiver training and

education goals. She expressed concern that, according to ALP's report, Claimant's caregivers were still unfamiliar with basic ABA methods although they had been receiving training since 2013. Also concerning to Dr. Bienstock was ALP's report that Claimant's caregivers were not implementing ABA strategies, collecting data to share with ALP regarding Claimant's progress, or participating in services 100 percent of the time.

9c. Dr. Bienstock provided a final authorization for the provision of ABA services at a rate of 18 hours per week. She authorized the hours to allow time for ALP to address her concerns and develop a fade-out plan. Dr. Bienstock also suggested that Claimant's service coordinator offer Claimant's family adaptive skills training (AST) and social skills training.

10a. Dr. Bienstock's concerns were communicated to Tanya Lopez, M.S., BCBA, ALP's Clinical Director. Ms. Lopez did not testify at the hearing; however, Claimant's mother produced an e-mail dated October 5, 2017, prepared by Ms. Lopez in response to Dr. Bienstock's concerns. Ms. Lopez disagreed with Dr. Bienstock's characterization of Claimant's goal of identifying family as academic. She contended that it was a socialization deficit and identification of who is a "safe person and not a stranger program." (Ex. A, p. 2.) She further explained that Claimant only mandated for a couple of items but could not identify everything in his environment; therefore, she included both manding and tacting programs in Claimant's treatment plan.

10b. Ms. Lopez stated that ALP had already started discussing a fade-out plan with Claimant's family and that ALP was aware that a reduction of hours would be implemented during the next reporting period. Ms. Lopez further asserted that Claimant's mother was knowledgeable in ABA and could recite and implement the strategies given to her. Finally, Ms. Lopez indicated that Claimant's mother and sister were actively involved in the ABA sessions and, barring illness or unavailability due to employment obligations, they made themselves available when asked.

11a. On November 15, 2017, ALP reported that during the review period, Claimant received 15 hours of direct service hours per week. He mastered two of his three receptive/expressive communication goals, but still needed to work on following two-step instructions. He had not met the pragmatic communication goals of requesting 10 different actions from others, waiting for preferred items for five minutes, or sitting for 5 minutes engaged in an activity without engaging in maladaptive behaviors.

11b. Claimant progressed in the self-help skills of independently brushing his teeth and following five safety commands, but ALP placed his showering training on hold because staff was not provided with enough opportunities to provide training during the therapy sessions. With respect to behavior, Claimant was "close to mastering" the goal of requesting a desired item and tolerating the denial of the desired item, 90 percent of the time. He mastered the goal of complying with non-preferred activities and/or demands placed on him without engaging in tantrums, and asking for assistance if needed.

11c. Five of the six caregiver education/participation goals were in progress, while one goal was placed on hold.

11d. ALP recommended that Claimant continue to receive services, with a fade-out plan for 12 direct supervision hours per week. ALP further recommended that 10 hours per month be allocated for program supervision and parent training.

12a. On April 19, 2018, Claimant's mother and grandmother met with Jocelyn Quintanilla, Claimant's former ELARC Service Coordinator, and Elena Cruz, ELARC Program Manager, to discuss Claimant's ABA services. Claimant's mother reported that Claimant continued to engage in challenging behaviors, and she did not agree with the fade-out plan because Claimant had not met his communication goals. Ms. Quintanilla suggested that Claimant's mother change Claimant's insurance from fee-for-service Medi-Cal to managed care Medi-Cal so that Claimant's ABA services could be covered. Ms. Quintanilla testified, however, that ELARC erred when discussing insurance options with Claimant's

mother because Claimant is already enrolled in Medi-Cal managed care.

12b. Claimant's mother refused to consider changing insurance plans because she feared that Claimant would not be able to receive treatment from the specialists currently treating him. The Service Agency offered to assist with coordinating Claimant's medical services through Easter Seal's Coordinated Life Services program, but Claimant's mother refused. The Service Agency recommended that Claimant receive AST, but Claimant's mother refused to accept AST services without ABA therapy services. Claimant's mother contended that Claimant did not receive ABA therapy services at school, but refused to provide a copy of Claimant's current Individualized Education Program (IEP) on the grounds that "she did not have to." She also indicated that she had not signed Claimant's 2017 IEP.⁶

13. At a May 2, 2018 Individualized Program Plan (IPP) meeting, Claimant's mother reported to Ms. Quintanilla that Claimant continued to engage in self-injurious behaviors, most notably hitting his head on the floor or on objects. At the IPP meeting and in her hearing testimony, mother stated as follows: Claimant also hits his head with his knee while sitting. Claimant wears a helmet to avoid injury pursuant to his school's request. Claimant continues to engage in tantrum behavior, but the behavior has

⁶ Claimant's October 5, 2016 IEP provided that pursuant to a mediated agreement, Claimant received Specialized Academic Instruction, Intensive Individual Services, Speech and Language Services, Occupational Therapy Services, and Curb to Curb Transportation. Claimant's school Behavior Specialist proposed seven goals in the area of social greetings/departures, tolerating denied/delayed access, gaining attention/peer interaction, toileting/staying dry, answering yes/no questions, and requesting.

decreased depending on his mood. He has difficulty sitting down for meals, and transitioning from one activity to another. At the IPP meeting and at the hearing, Claimant's mother voiced her disagreement with a fade-out of ABA services. Upon conclusion of the IPP meeting, ELARC agreed to fund intensive ABA services with ALP consistent with ELARC's Clinical Team Recommendations and pursuant to ELARC's policy and procedures.

14a. ALP noted in its July 20, 2018 progress report⁷ that Claimant's progress in meeting his goals was barred by multiple staff changes, ALP's inability to staff 100 percent of the authorized hours during the period of time covered by the progress report, and "generalization across caregivers." Claimant's tantrum and self-injurious behavior was below the baseline established in 2013. However, because the data regarding this behavior data varied due to staff changes, ALP indicated that it would continue to target the behavior to decrease it even further. Claimant mastered his goals with previous staff in regard to spitting, but the data as to this behavior varied due to new staff. In June 2018, Claimant mastered the attention-seeking behavior goal of refraining from rattling furniture, but the behavior increased because of a change in staff. Similarly, Claimant's attention-seeking behavior of yelling increased due to variability in caretakers and staff changes.

14b. Claimant made progress as to waiting for preferred items and following safety commands. Goals related to showering and utilizing utensils to eat were put on hold. Claimant's progress toward his six remaining goals related to communication and self-help was affected by change in staff. Specifically, Claimant's scores decreased or the data fluctuated or varied due to staff changes.

⁷ The Service Agency's representative represented that the July 20, 2018 progress report is a final report. However, the ALJ noted highlighted text and editorial comments, presumably made by ALP staff, throughout the report.

14c. Claimant's parents met four of the five goals previously established by ALP, but had not mastered the skill of delivering 10 instructions to Claimant during the ABA therapy sessions. ALP established the new parent goal of Claimant's mother facilitating one community outing per week in order to target Claimant's safety goals.

14d. ALP stated in the July 20, 2018 report that as Claimant acquired new skills, generalized them, and maintained them, ALP would develop a therapy plan that would fade out the number of hours direct services that are provided. In addition, ALP stated that it would develop a fade-out plan in collaboration with Claimant's family once Claimant's parents demonstrated mastery of the skills targeted, Claimant's behavior excesses were remediated, and Claimant's parents demonstrated the ability to address future concerns.

14e. ALP recommended that Claimant receive intensive ABA therapy at a rate of 18 hours per week of direct intervention in order to allow Claimant to acquire new skills and generalize them across caregivers and in multiple settings. ALP also requested that 10 hours per month be allocated for supervision.

15. Dr. Bienstock testified that ALP recommended an increased number of ABA hours from the 12 hours recommended in the November 15, 2017 progress report because ALP's Clinical Supervisor was new to Claimant's case and looked solely at the treatment plan. Dr. Bienstock's assertion is unpersuasive given ALP's Clinical Supervisor's stated basis for the recommendation of 18 hours per week, namely skill acquisition and mastery on the part of Claimant and Claimant's parents.

16. Dr. Bienstock opined that there was no clinical reason to increase the number of intensive ABA hours to 18 hours per week in light of Claimant's progress and mastery of goals as reported by ALP. She explained that ALP failed to justify an increase in direct service hours in its July 20, 2018 report. Dr. Bienstock further opined that while Claimant still required ABA services, Claimant's progress demonstrated that he needed less intensive ABA services. She explained that the fade-out of services would occur over six

months or up to one year. In addition, ALP and ELARC will evaluate Claimant's progress every four months during the fade-out. If the decreased service hours are insufficient, ELARC will reevaluate the number of authorized hours. During the last four months of the fade-out plan, other interventions such as AST services or social skills training would be introduced. Dr. Bienstock noted the necessity of the provision of AST with an ABA emphasis. Dr. Bienstock's testimony was given weight in light of her training and experience. Moreover her testimony was supported by the progress reports submitted by ALP which demonstrated that the increased maladaptive behavior reported by ALP stemmed staffing changes and fluctuation in data.

17. Claimant's mother testified regarding Claimant's tantrum and self-injurious behaviors, as set forth in Factual Finding 13. She stated that he also hits himself with toys, and hits his head on table edges. Claimant's mother asserted that while the intensive ABA services Claimant receives have improved his behavior, he has acquired new challenging behaviors, which he displays when he becomes frustrated because of his lack of sight and inability to communicate. Claimant cannot utilize utensils and throws his food. He undresses at inappropriate times, exposing himself to others. He also has trouble chewing food. Claimant's mother testified that Claimant required continued intensive ABA therapy services at 18 hours per week because Claimant cannot function in the community. Claimant's mother asserted that Claimant is unable to cross the street safely, and throws items from the shelves when he goes to the grocery store. Claimant's mother expressed her concern for Claimant's safety.

18. Claimant's mother contended that ELARC pressured ALP to fade out Claimant's intensive ABA services. While Dr. Bienstock voiced concerns regarding the services provided, there is no evidence to suggest that Dr. Bienstock or ELARC staff forced or otherwise coerced ALP to reduce the number of direct intensive ABA service hours received by Claimant.

19. Claimant's mother does not oppose transitioning to AST services, but wants the AST provider to be certified in providing ABA. She expressed interest in Claimant receiving ABA therapy and AST concurrently. However, the testimony of Dr. Bienstock demonstrated that AST would be introduced during the last fourth months of the ABAfade-out program because Claimant's ABA skills should be mastered and maintained before AST is introduced.

20. It is undisputed that Claimant still requires ABA therapy services. However, the evidence demonstrated that Claimant has mastered the initial goals established by ALP in 2013, as well the subsequent behavior replacement goals ALP established during the intervening years. The most recent report by ALP stated that Claimant has mastered the majority of his self-injurious behavior and tantrum goals, and that the reported increase in maladaptive behavior was due to multiple changes in ALP staff. ALP did not state, or otherwise submit to ELARC for review, a clinical need for an increase in intensive ABA therapy hours. Moreover, the majority of newer goals established by ALP relate to adaptive communication and self-help skills, which can be addressed with AST services and social skills training. Accordingly, ELARC demonstrated that Claimant's intensive ABA therapy services should be subject to a fade-out plan, to be evaluated every four months, with the introduction of AST and social skills training at the appropriate time.

LEGAL CONCLUSIONS

1. This case is governed by the Lanterman Developmental Disabilities Services Act (Welfare and Institutions Code section 4500 et. seq., referred to as the Lanterman Act).⁸ Under the Lanterman Act, an administrative "fair hearing" is available to determine the rights and obligations of the parties. (§ 4710.5.) Claimant timely requested a fair hearing

⁸ All further statutory references are to the Welfare and Institutions Code unless otherwise indicated.

to appeal the Service Agency's proposed denial of continuing funding for intensive ABA services to be provided by ALP at the rate of 18 hours per week. Jurisdiction in this case was thus established.

2. Where a change in services is sought, the party seeking the change has the burden of proving that such a change is necessary. (See, Evid. Code, §§ 115 and 500.) In attempting to reduce Claimant's intensive ABA therapy service hours, the Service Agency bears the burden of proving by a preponderance of the evidence that the reduction in hours is necessary. The Service Agency has met its burden of proof with respect to the basis for continuing to fund intensive ABA therapy services with a fade-out plan. (Factual Findings 4 through 20.)

3. Under the Lanterman Act, the State of California accepts responsibility for persons with developmental disabilities. The Lanterman Act mandates that an "array of services and supports should be established . . . to meet the needs and choices of each person with developmental disabilities . . . and to support their integration into the mainstream life of the community." (§ 4501.) These services and supports are provided by the state's regional centers. (§ 4620, subd. (a).)

4. The California Legislature enacted the Lanterman Act "to prevent or minimize the institutionalization of developmentally disabled persons and their dislocation from family and community . . . and to enable them to approximate the pattern of everyday living of nondisabled persons of the same age and to lead more independent and productive lives in the community." (*Association for Retarded Citizens v. Department of Developmental Services* (1985) 38 Cal.3d 384, 388.)

5. Regional centers must develop and implement IPPs, which shall identify services and supports "on the basis of the needs and preferences of the consumer, or where appropriate, the consumer's family, and shall include consideration of . . . the cost-effectiveness of each option" (§ 4512, subd. (b); see also §§ 4646, 4646.5, 4647, and

4648.) The Lanterman Act assigns a priority to services that will maximize the consumer's participation in the community. (§§ 4646.5, subd. (a)(2); 4648, subd. (a)(1), (2).)

6. Regional centers have a duty to identify and pursue all possible sources of funding, including Medi-Cal, for consumers receiving regional centers services. (§ 4659, subd. (a).) The regional center is prohibited from purchasing any service that would otherwise be available from Medi-Cal, private insurance, or a health care services plan when a consumer or a family meets the criteria of this coverage, but chooses not to pursue that coverage. (§ 4659, subd. (c).) In addition, a regional center is prohibited from purchasing medical services for a consumer unless the regional center is provided with documentation of a Medi-Cal, private insurance, or a health care service plan denial, and the regional center determines that an appeal by the consumer or family, of the denial does not have merit.(§ 4659, subd. (d)(1).)

7. Regional centers may discontinue purchasing ABA or intensive behavioral intervention services for a consumer when the consumer's treatment goals and objectives are achieved. ABA or intensive behavioral intervention services shall not be discontinued until the goals and objectives are reviewed and updated, and shall be discontinued only if those updated treatment goals and objectives do not require ABA or intensive behavioral intervention services.(§ 4686.2, subd. (b)(4).) ELARC's Guidelines (Factual Finding 4) are consistent with this statute.

8. ELARC met its burden of proving that it is appropriate to continue funding intensive ABA therapy services provided by ALP for Claimant pursuant to a fade-out plan. Pursuant to ALP's progress reports, Claimant has mastered the initial goals established by ALP, as well as subsequent behavior replacement goals. Any new maladaptive behavior can be addressed during the fade-out of intensive ABA services, and the appropriateness of the recommended number of direct services, hours as well as Claimant's progress will be evaluated by ELARC every four months. Moreover, the majority of goals established by

ALP in its July 20, 2018 progress report relate to adaptive communication and self-help skills, which can be addressed by AST services and social skills training. (Factual Findings 4 through 20.) For the foregoing reasons, Claimant's appeal is denied.

9. The Service Agency has offered to assist Claimant's mother with pursuing ABA services through Medi-Cal, but Claimant's mother has refused this assistance. The Service Agency also offered to assist Claimant's mother in coordinating Claimant's medical services through its Coordinated Life Services program, which is vendored by Easter Seals. A regional center, such as ELARC, cannot comply with its duty pursuant to section 4659 to pursue all possible sources of funding for Claimant's ABA services if it does not have the right or power to do so. At the same time, a person who seeks benefits from a regional center must bear the burden of providing information, submitting to reasonable examinations and assessments, and cooperating in the planning process. (See Civ. Code § 3521 ["He who takes the benefit must bear the burden."].) Of course, Claimant's parents can refuse to do anything that they believe would be detrimental to Claimant. However, if the exercise of that right interferes with the implementation of the Lanterman Act, then a regional center may have no choice but to refuse to render services, as the failure of cooperation may negate the authority to compel the regional center to fund services and supports. In the event that Claimant's parents cooperate with ELARC and authorize ELARC to communicate with, request information from, or give information to other agencies, institutions, or persons concerning Claimant in order to secure funding of ABA services through the Medi-Cal program or any other generic resource, ELARC shall make its best efforts to do so.

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ORDER

1. Claimant's appeal is denied.
2. The Service Agency's shall continue funding intensive ABA therapy services provided by ALP for Claimant pursuant to a fade-out plan. The fade-out of services shall occur over six months or up to one year, as deemed appropriate.
3. The Service Agency and ALP will evaluate Claimant's progress every four months during the fade-out. If the decreased service hours are insufficient, ELARC shall reevaluate the number of authorized hours.
4. During the fade-out of intensive ABA services, the Service Agency shall introduce appropriate interventions AST service or social skills training as appropriate.

DATED:

CARMEN D. SNUGGS

Administrative Law Judge

Office of Administrative Hearings

NOTICE

This is the final administrative decision; both parties are bound by this decision. Either party may appeal this decision to a court of competent jurisdiction within 90 days.