

**BEFORE THE  
OFFICE OF ADMINISTRATIVE HEARINGS  
STATE OF CALIFORNIA**

**In the Matter of:**

**CLAIMANT**

**v.**

**REGIONAL CENTER OF ORANGE COUNTY**

**OAH No. 2021020487**

**DECISION**

Thomas Lucero, Administrative Law Judge (ALJ), Office of Administrative Hearings, State of California, heard this matter by telephone and videoconference on April 5 and 22, 2021.

Keith Dobyns, Attorney at Law, represented the Regional Center of Orange County (Service Agency). Claimant was represented by her father. The names of claimant and his family are omitted to protect their privacy. The proceedings were interpreted from Spanish, parents' primary language.

Oral and documentary evidence was received. The record closed and the matter was submitted for decision on April 22, 2021.

## **STATEMENT OF THE CASE**

Claimant requested that Service Agency provide 200 instead of 10 respite hours per month, 120 hours of COVID-19 respite per month, a personal assistant, and 21 days per month of overnight supervision. The Service Agency has declined each request based on its evaluation of claimant's needs. Parents believe, however, that Service Agency personnel have based decisions to deny or limit services on racial bias and are otherwise not following the Lanterman Act, that is, the Lanterman Developmental Disabilities Services Act, Welfare and Institutions Code sections 4500 through 4885. In consequence, claimant's father wrote the Service Agency that he was submitting a 4731 complaint, that is, a complaint under Welfare and Institutions Code section 4731, providing that a consumer may claim that a service agency has improperly or unreasonably denied the consumer's rights. A fair hearing does not decide such complaints, but rather whether claimant's evidence of needs established that his requests for services must be provided or funded by the Service Agency.

## **ISSUE**

Whether, given claimant's developmental disability, he should be provided 200 hours of respite per month or more, overnight supervision, and a personal assistant.

## **SUMMARY OF DECISION**

There is no doubt that claimant struggles behaviorally and otherwise, making him eligible for the services identified in his Individualized Program Plan (IPP). But the

evidence did not establish that his requests in dispute are appropriate. His appeal is appropriately denied.

## **FINDINGS OF FACT**

1. Claimant timely sought a fair hearing under the Lanterman Act following a NOPA, Exhibit 1, denying his request for a personal assistant, an increase in respite hours from 10 to 200 hours per month, 120 hours of COVID-19 respite per month, and 21 days of overnight supervision per month.

2. The Service Agency denied claimant's services requests based on, among other things, that claimant did not establish that he meets the exceptional level for respite and the Service Agency may not fund services when there is an available resource, such as a school district, that is receiving public funds for providing the resource.

3. Claimant, who is eligible for services based on a diagnosis of autism spectrum disorder (ASD), is five years old and lives with his parents and four sisters. Claimant's younger sister is also eligible for services. Claimant was in the Early Start Program until he turned three, the eligibility cut-off in that program.

4. Claimant's Service Coordinator (SC) at the Service Agency is Angela Guzman.

A. SC Guzman has been a Service Agency SC for three years and claimant's SC since September 2020. She earned a Bachelor of Arts in Psychology from California State University, Long Beach. She has been a tutor to middle school students and for a year assisted emotionally disturbed children as a special education aide, one

on one at times, in the Paramount School District in Paramount, California. For two years after that she worked one on one as an Applied Behavior Analysis (ABA) therapist at Autism Spectrum Therapies in Long Beach.

B. SC Guzman works to implement and develop consumers' IPP's, meeting families and gathering information from them and from school reports and assessments to provide consumers and their families appropriate resources. This is exactly the course SC Guzman followed with respect to claimant and his family. SC Guzman called the family to schedule a meeting, at which they discussed claimant's needs, the services already being provided him, and what services could help him further. SC Guzman discussed the information gathered with a team from the Service Agency and to follow up on father's requests for claimant.

## **Initial IPP**

5. Claimant's IPP, Exhibit 7, is based on September 25, 2020 meeting with parents and SC Guzman, who signed the IPP on November 9, 2020. As SC Guzman testified, the IPP is an action plan that discusses goals for a consumer and the services and supports to help meet the goals.

6. Father's initial requests at the September 25, 2020 videoconference meeting, on which the initial IPP is based, were for respite and assistance during school hours. SC Guzman and parents discussed, among other things, claimant's living arrangements, his behaviors at school, activities of daily living, and the generic resources he was receiving.

7. As reflected in the initial IPP, page 2 of 9, Medi-Cal was funding claimant's medical and dental care, In-Home Supportive Services (IHSS), behavioral services, and occupational therapy (OT). Claimant's school district, the Placentia-Yorba

Linda Unified School District, was funding educational services. The IPP includes this agreement: the Service Agency was “to fund for ongoing case management and other necessary services and supports that are within [the Service Agency’s] POS [purchase of service] guidelines.” In an IPP Addendum, Exhibit 6, which SC Guzman signed on December 14, 2020, she stated: “[P]arents do not read English. Parents are Spanish speaking and requested that the IPP be translated to Spanish.” The agreement noted in the IPP was not affected by the need for translation, given that parents were able to discuss matters with bilingual Service Agency personnel.

8. Carrie Otto is the area manager of the Service Agency’s west office.

A. The Service Agency has employed Ms. Otto since mid-1999. She has experience as an SC and an area supervisor. She earned a Bachelor of Arts in psychology and a Master’s in sociology from California State University, Fullerton.

B. As area manager, Ms. Otto works to ensure that case management services are delivered to eligible consumers and oversees the work of the case managers as they develop IPP’s. Ms. Otto described an IPP as a process, eventually crystalized in writing and revised annually. Service Agency personnel meet eligible consumers and their families to discuss needs and goals and proceed to identify services that may be available, including those that the Service Agency may fund. Generally, the Service Agency team working with a particular consumer does not provide services until they are discussed as part of an IPP.

C. Ms. Otto is familiar with claimant, his needs, and goals, but has seen him only briefly in a recent videoconference over the Zoom platform. She was not involved in planning and providing services for him until shortly before the November

25, 2020 meeting described by SC Guzman, as set out above. Parents had asked that Ms. Otto attend the meeting, so she did.

D. The November 25, 2020 meeting is called a Planning Team Meeting (PTM). A PTM may be considered an extension of an IPP meeting. It is not customary that Ms. Otto attend such a meeting. She nonetheless accommodated parents' request. Also in attendance from the Service Agency were area supervisor Araceli Mendez, SC Guzman, and Larry Landauer, executive director of the Service Agency. Mr. Landauer's attendance was extraordinary. Ms. Otto could recall his attending a PTM or similar meeting only once before in the 22 years they have been at the Service Agency.

9. Father said at the outset of the November 25, 2020 meeting that he was asking that the Service Agency provide claimant a personal assistant because the same request to claimant's school district had been denied. Father was asking for an aide or assistant who would give claimant one-on-one attention for school work.

10. As Ms. Otto testified, the Service Agency does not usually provide personal assistants to children.

A. Personal assistance is generally not offered to young children because they require continual supervision for their general safety, and that is a responsibility of the family, not an assistant.

B. Personal assistance is a special option to allow adults to make progress toward self-sufficiency or when such assistance would prevent institutionalization of an adult with severe behavioral needs.

C. There were two reasons, as Ms. Otto recalled, that the Service Agency did not authorize personal assistance for school support. First, claimant was eligible to return to in-person learning at his school, so that there was a generic resource available to him equivalent to the requested service. Second, whether a student is in need of one to one assistance to benefit from a school program is for the school district to decide, not the Service Agency.

11. The POS Guidelines set out criteria for personal assistance to an adult, as set out in Exhibit 14, pages 27 through 29. The criteria include, as set out on page 27:

2. The consumer is exhibiting behavior, which may prevent continued enrollment in the current day program unless intervention is provided to stabilize the consumer, which will enable him/her to remain in the day program. The condition is temporary and improvement is expected to occur within 90 days. [¶] . . . [¶]

4. The consumer displays a significant reduction in functioning in regards to activities of daily living requiring increased care. The condition is temporary and improvement is expected to occur within 90 days.

12. Under Child Care Services, the POS Guidelines state among other things regarding personal assistance for children:

5. Personal Assistance - The provision of an aide to support a child placed in a licensed day care site or an after-school program at a 1:1, 1:2, 1:3, or 1:4 staffing ratio. Such Personal Assistance may be provided only when a child has been

assessed in a proactive manner to be in need of such assistance, or for a child who has been rejected or ejected from a child care program and had a subsequent assessment conducted to determine what resources might be applied to enable the child to return to an inclusive child care program. Personal Assistance is provided in the form of a trained aide who is to be approved for a specified period of time and is to be reviewed for continued authorization (e.g. 3 months, 6 months or 12 months). Authorization for Personal Assistance should be based upon the RCOC- funded assessment & report, and should include a plan for fading this form of support services. Personal Assistance hours will not be funded for time or activities outside of, or in addition to the licensed child care or after-school program setting.

13. Near the end of the November 25, 2020 meeting, father mentioned other requests, which, being significant, needed discussion. But time had run out. It was past 5:00 p.m. the evening before Thanksgiving. Father said he would send the requests by email. He did so at 5:13 p.m. that evening, soon after the meeting's close. Addressing Larry Landauer, father wrote among other things, as set out in Exhibit 1, pages 12 through 13:

My son must learn to do activities like any typical child but you have denied him the opportunity to live a normal life. These are the goals:

1 • Learn to ride a bike



- 2 • rollerblading
- 3 • use a skateboard
- 4 • To have coordination
- 5 • Process and order and follow instructions
- 6 • Be aware of dangers
- 7 • Have personal hygiene
- 8 • Have . . . communication with [an] . . . interlocutor . . .
- 9 • Learn to beware of strangers and recognize danger
- 10 • Learn to ask for help when needed
- I 1 • Maintain focus on activities
- 12 • Wait when it's his turn
- 13 • Follow instructions
- 14 • Cross a street safely
- 15 • Interact with others appropriately
- 16 • Identify clothing items and use them appropriately
- 17 • Learn to handle toilet paper and wipe properly
- 18 • Learn to be flexible with others
- 1.9 • Complete transitions

20 • To eat properly with utensils

21 • Trust people when it's appropriate

22 • Control his feelings

23 • To express his needs

Just to mention a few goals, Mr. Larry [Landauer], I kindly ask you to read my son's medical records and rectify your decision to deny him services for my son. Otherwise I will have the need to sue you and your work team from the regional center. Thank you very much for your attention. I hope your best decision for the well-being of a 5-year-old boy who requires a lot of help.

Father stated further in the email, Exhibit 1, page 14, that claimant, though five years old, was functioning mentally like a child at 18 months of age:

So [claimant] needs a lot of one-on-one, face-to-face help. In all of his activities already mentioned. Today I am present at this meeting for a solution to the services that I request from the Orange County regional center.

- Personal assistant with support
- 200 hours of behavior respite
- Hours of Covid respite 6 hours daily 120 per month
- 21 days overnight

14. SC Guzman wrote father a November 30, 2020 letter, Exhibit 3, regarding the PTM five days earlier:

[Y]ou asked for a personal assistant for [claimant] during school hours as well as after school to assist with daily activities in the home and community. [Claimant] was offered in-person school instruction effective October 2020, but you shared you declined in person school services due to COVID. No specific medical issues were talked about that would prevent [claimant] from returning to school. You shared you requested a 1:1 aide in the home from the Placentia-Yorba Linda Unified School District (PYLUSD) which was denied. RCOC is not able to fund service when there is an available resource, such as the school district, per Welfare and Institutions Code 4648 (a) (8) . . . .

In addition to the school supports available for [claimant], he receives 10 hours per week of in person applied behavior analysis (ABA) services in home, individual Occupational Therapy 1 hour per week in-center and individual Speech Therapy 1 hour per week in-center all funded by Cal Optima.

This letter is to inform you that the Regional Center of Orange County is not able to fund your request for personal assistant. RCOC is mandated by law to ensure that eligible persons use all generic resources, such as the school district, prior to funding a service Welfare and Institutions

Codes 4624, 4646, 4648 (a)(8), and 4659. [Claimant] is eligible for several therapeutic services through school and Cal Optima to address his school, home and community needs. The respite services approved will provide you an occasional break from [claimant's] care.

Following our PTM we received your email requesting 200 hours per month of behavioral respite, 6 hours per day of respite due to COVID/120 hours per month and 21 days of out of home respite. These requests were not reviewed during our PTM. If you would like to discuss these requests, we can schedule a PTM. At this time we are not able to approve these requests.

15. Father wrote Mr. Landauer a January 21, 2021 email, Exhibit 5, saying that he was submitting a 4731 complaint, that is, a complaint under Welfare and Institutions Code section 4731, providing that a consumer may claim that a service agency has improperly or unreasonably denied the consumer's right. Father provided a list of requests that he claimed had been denied:

1 - I requested that the list I sent you of my child's goals be written to the IPP

2 - I requested emergency respite hours thru Covid 19

3- I requested a personal assistant

4- I requested an increase in support respite hours

5- I requested the 21-day respite service

6- I requested a state-certified interpreter

7- I requested for RCOC clinical team be at the IPP meetings

8- I requested a denial action letter for each of these services that were denied

Father stated further that there had been many meetings during which he had been transparent, presenting claimant's needs, but from Service Agency personnel the response was that more meetings were needed, there was "the same story saying that they did not talk about it." Father claimed racial discrimination, that the Service Agency favored people: "of white family race whom RCOC never denies . . . anything and my son everything I request they denied, I repeat, RCOC is discriminating against me and my son. ¶ I personally perceive racist discrimination to me and my son by the Orange County Regional Center and the staff that work there."

16. Father made a similar assertion of racial discrimination at the fair hearing, but offered no supporting facts.

A. The ALJ asked for an offer of proof, a description of the evidence on which he would rely for assertions of this kind. Father offered no facts, and no preliminary description of facts, on which he might proceed.

B. Instead of facts, father said that he planned to call as witnesses parents of Latin descent who would testify that they were subjected to similar treatment and discrimination. As the parties discussed at the outset of the second day of hearing, claimant had filed a list of these witnesses one business day before the second day of hearing. Counsel objected that claimant had not served the list on the

Service Agency, notwithstanding the requirement of Welfare and Institutions Code section 4712, subdivision (d), that: "The claimant and the service agency shall exchange a list of potential witnesses, [and] the general subject of the testimony of each witness . . . at least five calendar days prior to the hearing."

C. The Service Agency objected further that evidence on the services and supports provided other consumers and their experiences were irrelevant. The ALJ explained to father, who is not an attorney, that each consumer has unique needs, so that there did not appear a basis for testimony of this kind. Father then stated that the other parents had complaints against the Service Agency. There was further discussion, including that complaints of all sorts are common against all sorts of institutions, so that if father were to proceed with his claim of racial discrimination, he would have to describe more specific facts. He did not.

17. Father's made additional requests in his January 2021 email, Exhibit 1, to the Service Agency:

RCOC is unfair by not writing the goals on [claimant's] IPP just like all of his needs and diagnosis I think and believe that RCOC is discriminating [against] my son . . . who has a diagnosis of Autism, Developmental Delay, and Intellectual Disab[ility]. [Claimant] is currently 5 years old but acts like an 18 month old boy his social communication is at a severe level expressive and receptive and comprehension. [Claimant] needs a personal assistant to consistently support him in all of his daily community and personal life activities. [Claimant] requires a lot of face-to-face help and he needs a lot of help all the time to redirect him

appropriately and adequately all the time in all of his activities.

18. Mr. Landauer wrote father a February 19, 2021 letter, Exhibit 4, providing a response to father's 4731 complaint. He noted, among other things, that following the November 25, 2020 PTM and the Service Agency's denial of the services requested in father's email of the same date, it had offered to discuss father's demands for other services further in a follow-up PTM. On the Service Agency's behalf, Mr. Landauer requested, again, that father agree to discuss his request for more services for claimant in a PTM.

19. SC Guzman wrote father a March 21, 2021 letter, Exhibit 2, regarding a March 8, 2021 PTM, during which Service Agency personnel, parents, and persons parents invited, discussed father's requests.

A. SC Guzman wrote that the Service Agency had authorized 10 hours per month of respite, according to its POS Guidelines, as claimant did not meet criteria for exception level respite services, such as 200 hour per month.

B. SC Guzman noted that the respite provider father had chosen was not willing to proceed, so that another should be chosen. As SC Guzman testified, parents made no new choice.

C. SC Guzman further noted that claimant's school district offered him in-person instruction as of October 2020, and with this generic resource available, the Service Agency could not provide replacement services, such as COVID-19 respite hours.

20. The Service Agency has employed Christina A. Genter for approximately 20 years. and

A. A Board Certified Behavior Analyst (BCBA) since 2003, Ms. Genter has worked as a Behavior Services Specialist at the Service Agency for approximately 10 years. She holds a Master's degree in psychology from the University of Judaism. Her curriculum vitae is Exhibit 15.

B. Ms. Genter's duties include performing functional behavioral assessments. She reviews progress reports from behavioral or ABA providers. She explained that ABA is behavioral analysis that is applied in that it is provided in and adapted to a natural setting, such as the home or places in the community a consumer visits. Ms. Genter listens and responds to the concerns of vendors and parents and participates in PTM's. She will observe a consumer at home or school as necessary to determine the consumer's needs.

C. Recommendations from behavioral providers usually have three components: (i) one to one services, (ii) consultation with parents, and (iii) supervision of the consumer by an entry-level worker or technician in behavioral services. Such a worker will go to the consumer's home to establish instructional control, building a learning foundation for the consumer, and to follow a plan prepared by a behavioral specialist, like a BCBA.

D. A BCBA or middle-tier behavioral specialist then trains parents to understand the strategy implemented thru ABA progress. In this way the skills taught the consumer are generalized to more natural settings, both at home and in the community. In addition, concerns may be addressed outside of ABA sessions.



E. Ms. Genter reviewed claimant's August 14, 2018 Individualized Education Plan (IEP), Exhibit 12, prepared by Northeast Orange County, a SELPA (Special Education Local Plan Area). The IEP gave Ms. Genter a better understanding of claimant's abilities and needs as it evaluated him over a number of skill areas, such as adaptive living, and covers academics and behavioral goals in the classroom and during school sessions.

F. Ms. Genter reviewed a report, Exhibit A, from Jade Behavioral Consultants (Jade Behavioral), Anaheim California, which provides claimant ABA services. Jade Behavioral is not a Service Agency vendor. Its services for claimant are funded by Cal Optima. Comparing the Jade Behavioral report and father's November 25, 2020 list of goals, such as claimant's learning to ride a bicycle and skateboard, Ms. Genter stated that these are not usually behavioral goals, because they are not directed at integrating a consumer into the community. It is generally the parent's responsibility to spend time with a child to teach such activities. If, however, the child has mobility issues, and is unable to move correctly to acquire such a skill, then OT could be required. Claimant is receiving OT.

G. Many of father's November 25, 2020 goals are, like bicycling and skateboarding, similar or require overlapping skills.

H. Jade Behavioral is addressing goals such as following instructions, father's goal number 13 in his November 25, 2020 email. Thus the first goal stated on page 5 of Jade Behavioral's report, Exhibit A, page 24, is to "decrease the frequency of non-compliance . . . ." Jade is working on teaching claimant to follow instructions even with respect to non-preferred activities. There is also the potential, as claimant makes progress with ABA, that Jade could add goals like those listed by father on November 25, 2020.

21. Father and mother testified that they perceive unfairness in how they and claimant are treated by the Service Agency. Their evidence, however, was based on the Service Agency's denial of more than 10 hours of respite per month, a personal assistant, and overnight supervision. Neither witness provided facts to explain how claimant's disability or their tasks in caring for claimant would be improved or lightened if the services denied were provided by the Service Agency or another organization such as Jade Behavioral.

22. Claimant also called area supervisor Araceli Mendez as a witness. Her testimony, however, was consistent with that of the three other Service Agency witnesses.

## **PRINCIPLES OF LAW**

1. Claimant has the burden of proof. The party that seeks to obtain benefits or services or change the status quo bears the burden of proof. (See, e.g., *Lindsay v. San Diego County Retirement Bd.* (1964) 231 Cal.App.2d 156, 161 [disability benefits]. Under Evidence Code section 115, the standard of proof in this case is the preponderance of the evidence, "Preponderance of the evidence means evidence that has more convincing force than that opposed to it. (Citations.) . . . [T]he sole focus of the legal definition of 'preponderance' in the phrase 'preponderance of the evidence' is the *quality* of the evidence. The *quantity* of the evidence presented by each side is irrelevant." (*Glage v. Hawes Firearms Co.* (1990) 226 Cal.App.3d 314, 324-325, italics in original.) In this case, claimant did not carry his burden of proof.

2. Subdivision (a) of Welfare and Institutions Code section 4646 states: the Lanterman Act respects the "needs and preferences" of the family and the

developmentally disabled individual; promotes community integration; and ensures that IPP's are effective in meeting their stated goals without undue expense.

3. By statute, service agencies are mandated to cooperate with consumers and their families if appropriate in the care of the developmentally disabled. Thus subdivision (d) of Welfare and Institutions Code section 4646 states that IPP's reflect agreement: the developmentally disabled individual and the individual's family (as appropriate) agree with the service agency as it purchases services, like respite care from qualified agencies, or obtains generic resources, those available from non-exclusive sources, such as specific types of medical care from hospitals, clinics, and their medical personnel.

4. Welfare and Institutions Code section 4646.4 provides that a Service Agency must, for purposes of an IPP, establish an internal process to ensure adherence to federal and state laws and regulations. Under the statute, the Service Agency must also follow its POS Guidelines and not fund services funded by and available from a generic resource, as set out in Welfare and Institutions Code section 4659. Similarly, as set out in Welfare and Institutions Code section 4648, subdivision (a)(8), Service Agency funds must not supplant the budget of another public agency with legal responsibility to serve the public with public funds.

5. As stated above, a fair hearing is not the process by which a 4731 complaint is decided. For context, however, Welfare and Institutions Code section 4731 is quoted below in pertinent part:

(a) Each consumer or any representative acting on behalf of any consumer or consumers, who believes that any right to which a consumer is entitled has been abused, punitively

withheld, or improperly or unreasonably denied by a regional center, developmental center, or service provider, may pursue a complaint as provided in this section.

(b) Initial referral of any complaint taken pursuant to this section shall be to the director of the regional center from which the consumer receives case management services. . . .

[¶] . . . [¶]

(e) This section shall not be used to resolve disputes concerning the nature, scope, or amount of services and supports that should be included in an individual program plan, for which there is an appeal procedure established in this division, or disputes regarding rates or audit appeals for which there is an appeal procedure established in regulations. Those disputes shall be resolved through the appeals procedure established by this division or in regulations.

## **ANALYSIS**

1. Parents were correct, sympathetic, and sincere in their testimony that claimant has significant developmental disabilities. He struggles daily and presents challenges for parents and others, such as personnel of Jade Behavioral, who are attempting to give claimant the skills to lead a fulfilling life in his community.

2. The challenges that parents face no doubt are at least in some measure a reason for the belief that the Service Agency is treating them and claimant unfairly, or that the Service Agency should be providing much more assistance. It is out of deep concern for claimant that parents, father in particular, have demanded extraordinary measures.

3. But it is clear that the Service Agency has attempted to keep parents informed, even reassured, and to provide claimant all resources it can in accordance with the Lanterman Act. As Ms. Otto testified, it is far from usual practice for the Service Agency to convene a PTM with her in attendance, and extraordinary for Mr. Landauer to be in attendance also. There was no evidence that Ms. Otto or Mr. Landauer could provide more information regarding services claimant needs than Service Agency personnel such as SC Guzman or Ms. Mendez, who often interact with parents, claimants, and providers such as a consumer's school district and its personnel.

4. It appears that father demanded that Ms. Otto and Mr. Landauer attend the November 25, 2020 meeting in the belief that they had the power to correct unfairness, in the form of bias or racial animus, of other Service Agency personnel. Their attendance demonstrates that the Service Agency takes claims such as father's, seriously. But father did not present facts to demonstrate that such unfairness was occurring at that meeting or on some other occasion. Likewise at the fair hearing, though invited to make an offer of proof, father brought forth no facts to support his belief in such unfairness.

5. It bears repeating, as stated above, that a fair hearing does not decide issues in a 4731 complaint. To the extent parents believed that an ALJ at a fair hearing

should hear and decide matters appropriately claimed in a 4731 complaint, their belief was misguided.

6. The evidence indicates that Service Agency personnel have made appropriate attempts to ensure that claimant is cared for and is making progress toward goals, such as those outlined by Jade Behavioral. It indicates that the Service Agency has listened and considered parents' concerns about the challenges in supervising claimant constantly and in helping claimant to develop basic skills. But parents did not present facts to show that the Service Agency should take extraordinary steps such providing parents with 200 and more hours of respite per month or that claimant should have a personal assistant or overnight supervision.

7. In addition, the Service Agency's evidence was convincing that it is acting in compliance with the Lanterman Act. The Service Agency was not acting unfairly to claimant by not providing extraordinary services, such as 200 hours monthly of respite. Rather, as SC Guzman advised father in her March 12, 2021 letter, the Service Agency was following its POS Guidelines, adopted as required by Welfare and Institutions Code sections 4646.4 and 4659. So also, in not funding services available from claimant's school district, the Service Agency was obeying the mandate of Welfare and Institutions Code section 4648, subdivision (a)(8), not to supplant another agency's budget and the public funds it uses to provide services to the public.

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## **CONCLUSION OF LAW**

Claimant is receiving services because of his developmental disabilities. The evidence did not establish that claimant is in need of 200 hours of respite per month or more, overnight supervision, or a personal assistant.

## **ORDER**

Claimant's appeal is denied.

DATE:

THOMAS LUCERO

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.