

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

**In the Matter of:**

**CLAIMANT**

**v.**

**INLAND REGIONAL CENTER**

**Service Agency**

**OAH No. 2021080872**

**DECISION**

Kimberly J. Belvedere, Administrative Law Judge, Office of Administrative Hearings, State of California, heard this matter virtually on November 16, 2021, via the Microsoft Teams application.

Senait Teweldebrahn, Fair Hearings Representative, Fair Hearings and Legal Affairs, represented Inland Regional Center (IRC).

Claimant's mother represented claimant, with the assistance of a certified Spanish language interpreter. Claimant was not present.

Oral and documentary evidence was received. The record was closed, and the matter submitted for decision on November 16, 2021.

## **ISSUE**

Is claimant entitled to an increase in his college personal assistant services from 97 hours per month to 176 hours per month for activities such as meal preparation, running errands, and walking to the park to exercise?

## **FACTUAL FINDINGS**

### **Background**

1. Claimant is a 24-year-old man who qualifies for regional center services based on a diagnosis of Autism Spectrum Disorder and other chronic medical conditions.

2. Claimant receives 97 hours per month of college personal assistant services. Maxim Healthcare Services (Maxim) is the vendor for that service; claimant's father is the personal assistant. Claimant also receives 85 hours per month of respite services, for which his brother is the provider (claimant is approved to receive 40 hours per month, but a temporary increase was granted between August 2021 and December 2021 due to an unknown family health condition). Claimant receives 68 hours per month of In Home Supportive Services (IHSS). Claimant's mother is the provider of those services. Claimant resides at home with his mother, father, and two younger siblings.

3. According to claimant's most recent Individualized Program Plan (IPP) completed on July 27, 2021, claimant uses fingers of both hands to manipulate objects such as computers. He walks independently at least 20 feet with good balance. Claimant's mother continues to assist him with his medication to ensure correct

dosage. He eats independently with at least one utensil without spillage. Per claimant's mother, he continues to be unable to cut his food into smaller pieces. He is only allowed to drink in plastic cups to avoid an injury from an accident with glassware. Claimant has complete control of his bladder and bowel and toilets independently. Claimant has accidents with diarrhea only when ill, and his mother assists with wiping. Claimant receives assistance with personal hygiene. Claimant occasionally puts his clothes on backwards so his family monitors his attire.

4. Claimant received an Associate of Arts degree in "computers" in 2020. He desires to obtain a Bachelor of Arts degree from California State University, San Bernardino. Claimant has received college personal assistant services since 2017, first from an outside provider, and at present from his father, to assist him with attending college. Personal assistant services have not been approved for anything other than to assist with college attendance.

5. According to the July 27, 2021, IPP, claimant's mother desires claimant become more independent.

6. Given that the college personal assistant services are designed to assist claimant with attendance in college, the hours approved by IRC fluctuate depending on claimant's school schedule. In the past, claimant has received the following hours:

- 90 hours/month from October 1, 2017, through March 31, 2018;
- 135 hours/month from April 1, 2018, through May 31, 2019;
- 172 hours/month from June 1, 2019, through November 30, 2019;
- 190 hours/month from December 1, 2019, through May 31, 2020;

- 97 hours/month from June 1, 2020, through December 31, 2021.

7. Claimant's IPP is continuously updated as the personal assistant hours change, based on progress reports from Maxim. Maxim obtains the information for the progress report from claimant's father. Prior to June 1, 2020, claimant's mother agreed to and signed every IPP addendum.

8. Maxim provided a progress report to IRC in May 2020, which described claimant's goals as: working out (exercising) in the community to work on socialization and money management; meal preparation; organization and working on any assignments that need to be completed; and assistance with taking notes during class. IRC noted that most of these goals listed in the progress report (working out, socialization, money management, and meal preparation) were outside the scope of personal assistant services for college attendance.

9. Maxim's catalog of services includes a description of the vendored services it was contracted to provide to claimant. That catalog describes college personal assistant services as: mobility and transfers; class enrollment; locating classes and key departments within the school; organizing school meetings; note taking and page turning while in class or studying; encouragement and positive reinforcement; keeping on task; using the restroom; obtaining school supplies; time management and proper planning; one-to-one communication skills; and riding to class on public or private transportation.

10. The college personal assistant services **do not** include time for working out, socialization, money management, or meal preparation. After IRC noticed the incompatible activities in Maxim's May 2020 progress report, IRC notified claimant's mother that claimant's college personal assistant hours would be reduced from 190

hours per month to 97 hours per month, effective June 1, 2020, through December 31, 2021. IRC prepared an IPP addendum to that effect.

11. At the time these events occurred, the COVID-19 pandemic was just beginning. Many IRC employees were either working from home or remotely, and a lot of the communication having to do with IPPs and IPP addendums was handled via e-mail. IRC e-mailed claimant's mother the IPP addendum with the decrease in hours.

12. Claimant's mother testified that she did not agree to the decrease in hours and requested IRC send her a Notice of Proposed Action. Claimant's mother did not sign the IPP addendum. However, consumer ID notes submitted by IRC show that claimant's mother did agree (at least verbally and constructively) to the 97 hours per month and in fact, has been receiving those hours for well over a year, up to and including the date of this hearing. As part of the agreement to reduce the college personal assistant hours, IRC offered claimant's mother a more appropriate service to meet the incompatible goals stated in Maxim's progress report (working out, socialization, money management, and meal preparation). Specifically, IRC offered claimant 21 hours per month of independent living services (ILS), to be administered through Stellar Living. Claimant's mother accepted those services (again, as reflected in the consumer ID notes and other exhibits) and an individual service plan was prepared. Despite the services being accepted, the IPP addendum remained unsigned.

13. ILS services are designed to help a consumer become more independent with the goal of eventually being able to live alone. The service plan provided by Stellar Living showed that the goals Stellar Living was going to work on with claimant included teaching claimant how to cook; teaching claimant how to maintain proper hygiene; teaching claimant how to clean up his living area; and teaching claimant how to budget money. The goals stated in the service plan were consistent with claimant's

IPP goals at the time, which was signed by claimant's mother, as well as with his present goals (stated in his most recent July 27, 2021, IPP) of becoming more independent.

14. The ILS services commenced in July 2020 and were approved through January of 2021, but rejected by claimant's mother shortly thereafter. A letter sent by Stellar Living's director, Dexter Weathers, stated the following:

Stellar Living Enterprises Inc. (SLE) was approved to provide ILS services for [claimant] from 07/06/2020 to 1/06/2021. During the first month of attempting to provide services that were stated on the approved ISP, it was discovered SLE was not able to provide the services that [claimant's] family was under the impression of him receiving. Per the ILS worker that was assigned to work with [claimant], his mother believed that SLE was going to provide a service of completing household duties such as the family laundry, cleaning up the entire home, and cooking for the family. When informed that this was not the type of services that SLE provided, [claimant's] mother put a halt to all communication with the ILS worker as well as with the Director of SLE. Based on the policy and procedures of SLE services were terminated. . . .

15. Claimant's mother contends that she never signed the IPP addendum agreeing to receive 97 hours of personal assistant hours and only agreed to receive the 97 hours "pending" a hearing. However, as noted before, claimant has received the 97 personal assistant hours since June 2020, and in his most recent IPP, completed in

July 2021, it reflects the 97 hours of personal assistant services, and contains claimant's mother's signature. Thus, although she may not have signed the IPP addendum in June 2020, the subsequently signed IPPs supersede the earlier IPP addendum.

### **THE NOTICE OF PROPOSED ACTION DATED JUNE 11, 2021**

16. On June 11, 2021, more than a year after the reduction of college personal assistant hours, IRC sent claimant's mother a Notice of Proposed Action that is at issue in this hearing. The Notice of Proposed Action stated:

On May 26, 2021, IRC received an updated service plan from Maxim that reflected goals for college supports based upon [claimant's] class schedule. Maxim recommended the following service hours:

June – July 2021: 66 hours per month

August – December 2021: 97 hours per month

You are requesting an additional nine hours for the months of June and July 2021 (75 hours/month total) and an additional 79 hours for the months of August through December 2021 (176 hours/month total) to address the following goals:

- Meal prep for breakfast
- Meal prep for lunch
- Meal prep for dinner

- Run errands – buy supplies
- Walk to park and exercise

### **THE FAIR HEARING REQUEST DATED AUGUST 26, 2021**

17. Claimant's mother filed a fair hearing request on August 26, 2021, which stated (all errors in original):

I agree to raise the PA hours to 97 per month starting 6-1-2021 to 12-31-2021 \* I do not agree that they reduced the hours of PA Last year from 194 hours to 97 hours from 6-1-2020 to 2021 I never received a Notice of Action. NOA asked the CSC 2 Times for the Notice of Action so I could appeal and I have not received it I am requesting that [claimant] receive the total PA hours OF 194 per month.

I am appealing that the hours go up to 194 per month as MAY 2020 These hours should never have been reduced, this was never discussed and we never agreed with the decision made by the IRC CSC [claimant's] rights were violated because they did not give him the opportunity to appeal

18. The issue claimant's mother raised in the fair hearing request does not match the issue in the Notice of Proposed Action dated June 11, 2021.

19. Claimant's mother raised at hearing the matter of IRC's failure to timely provide her with a Notice of Proposed Action in May 2020 regarding the issue of the reduction from 194 hours per month to 97 hours per month of college personal



assistant services. However, that issue is outside the jurisdiction of this proceeding. Claimant's mother filed a complaint with the Department of Developmental Services, who investigated the allegations against IRC, and concluded that IRC should have given claimant's mother a Notice of Proposed Action in May 2020. But, that conclusion has no bearing on this fair hearing request because claimant has been receiving 97 hours per month in personal assistant services, claimant's mother has agreed to those services (via a signed IPP addendum in June 2021), and also agreed to the 97 hours in her signed fair hearing request. In other words, the fact that IRC should have been more timely in providing a Notice of Proposed Action has not in any way prevented claimant's mother from now contesting the number of personal assistant hours going forward.

### **THE INFORMAL MEETING ON SEPTEMBER 10, 2021**

20. The parties held an informal meeting on September 10, 2021, concerning the fair hearing request, wherein they discussed the issue of an increase in personal assistant services. A letter memorializing that meeting stated:

IRC is currently funding 97 hours per month. According to the NOA, you requested an additional 79 hours for the months of August through December 2021 (176 hours/month total) to address the following goals:

- Meal prep for breakfast
- Meal prep for lunch
- Meal prep for dinner
- Run errands – buy supplies

- Walk to park and exercise

According to the Fair Hearing Request, you agree with receiving 97 hours per month effective June 1, 2021. You filed the appeal because you stated that you did not agree to a reduction in hours from 194 [190] to 97 hours effective June 1, 2020 to May 31, 2021. During the informal meeting, you stated that the assigned Consumer Services Coordinator (CSC) gave you a blank piece of paper to sign and you regrettably signed it.

[¶] . . . [¶]

Regarding the reduction in personal assistance services, records show that PA hours decreased from 190 to 97 hours per month effective June 1, 2020. At the time, IRC recommended Independent Living Skills (ILS) services. It is reported in consumer notes that [claimant's mother] agreed to the reduction in PA hours and consented to ILS services. The authorization for ILS and the reduction in PA was reflected in the July 2020 IPP however it has not been signed by [claimant].

In March 2020, IRC employees were required to work remotely due to the COVID-19 pandemic. IPP meetings were, and continue to be, held remotely. Initially, it was anticipated that services coordinators would soon resume in-person visits and IPPs could be signed when face-to-face

visits resumed. However, it became increasingly more difficult to reschedule IPPs to be done in-person as the pandemic continued. IRC had to adapt and create procedures for finalizing IPPs and obtaining signed forms via remote work.

[Claimant and his mother] were not provided a blank form to sign. On August 10, 2020, Laura Rubacalva [sic], CSC, emailed the IPP signature page (ICRC 35c) containing the list of services authorized by IRC, including 97 hours/month of PA services, to [claimant] . . . . She emailed it again on August 24, 2020. The IPP signature page was not returned to IRC. At no time did [claimant or claimant's mother] respond and express disagreement with the authorized PA hours.

During the informal meeting, you explained that [claimant] has anxiety and requires assistance with accessing the community due to his autism. You would like him to be more independent in the community and with completing household tasks at home. You stated that he has also expressed to you his desire to be more independent. You stated that personal assistance service is the only service that works for the family. When asked, you stated that [claimant] has not received Applied Behavior Analysis services.

**It is IRC's position that the current Fair Hearing Request is outside the scope of what is appealable per the Notice of Proposed Action letter dated June 11, 2021.**

IRC has authorized 97 hours per month of PA services for over 12 months before receiving notice that there was a disagreement about the number of hours authorized.

**IRC reserves the right to file a motion to dismiss.**

However, a pending motion to dismiss does not relieve the regional center of the statutory requirement to conduct the informal meeting. Therefore, even though IRC must participate in the informal meeting, it is not a waiver of IRC's right to seek a dismissal of the Fair Hearing Request or an acknowledgment that OAH has jurisdiction to conduct a Fair Hearing. . . . [Emphasis Added].

### **CONCLUSION REGARDING ISSUE FOR THIS HEARING**

21. There is no legal authority to "go back in time" and award retroactive hours for a service that was already reduced, and readily accepted, for over a year. There is no legal authority to "award" extra college personal assistant hours to claimant that he should have received over the past year had a Notice of Proposed Action been timely sent. In consideration of all factors, it is concluded that the issue of whether the reduction in hours from 194 hours per month of college personal assistant services to 97 hours per month (in June 2020), as stated in the fair hearing request, is outside the jurisdiction of the fair hearing. However, given that claimant's mother requested an increase of 194 hours per month for a college personal assistant in the fair hearing request, and the Notice of Proposed Action indicated she requested

176 hours per month, and there is no dispute that claimant is and has been receiving 97 hours per month of college personal assistant services since June 2020, the fair hearing request need not be dismissed. The issue for this hearing will be the issue raised in the Notice of Proposed Action, namely, whether claimant is entitled to an increase in his college personal assistant services from 97 hours per month to 176 hours per month for activities such as meal preparation, running errands, and walking to the park to exercise.

### **Evidence Presented by Regional Center**

22. Laura Rubalcava was claimant's Consumer Services Coordinator for 6 years until a few months ago. Her duties include working with consumers and guiding them to obtain appropriate services and supports. The following is a summary of her testimony.

Regarding claimant's most recent request for an increase in college personal assistant hours, claimant's mother said she wanted the additional hours for preparing meals, cooking, going on walks, and running errands. Maxim is the company that provides the college personal assistant services, but these are not the services provided under the umbrella of college personal assistant services. Maxim's progress reports support 97 hours per month of these services, but not more. The types of services claimant's mother describes are actually independent living services, which help consumers become independent. Claimant's mother agreed to the ILS services but became "dissatisfied" and terminated them. Other services were offered in place of ILS but claimant's mother was adamant that claimant's father provide all the services requested as a "personal assistant." Claimant's mother did accept the 97 hours per month of college personal assistance and it has been provided for over a year. Until

the fair hearing request, claimant's mother never provided any written documentation indicating she disagreed with the 97 hours of college personal assistance.

23. Christine Slaughter has been a Behavior Service Coordinator for IRC for five years. Her duties include reviewing behavioral services and meeting with consumer service coordinators regarding requests. She holds compliance review meetings with consumer service coordinators to discuss any applicable reports from vendors, and helps consumer service coordinators determine what services are best for particular consumers. The following is a summary of her testimony.

Personal assistance for consumers between the ages of 18 and 26 is supported for a college setting that is aimed at helping them function in that setting like their non-disabled peers. Services provided include course support, class enrollment, transportation, mobility, and appropriate hygiene in the college setting. Personal assistance, however, is not intended to be permitted when there are other services to address the cited goals. In other words, respite is respite, social recreation is social recreation, and so on. Personal assistance cannot be used to replace respite or social recreation, or any other service for that matter.

Ms. Slaughter specifically referred to an excerpt from the Department of Developmental Services description of a personal assistant, which states:

IRC will not support Maxim Personal Assistant:

- To be used in lieu of respite, homemaker, ILS, SLS, social recreation, Specialized Individual Training (SIT) and Applied Behavioral Analysis (ABA) services.

- The Personal Assistant is not to supplant a consumer's need to develop functional and adaptive living skills. The consumer must already have these skills in their repertoire to receive Personal Assistant support.

- Personal Assistant is not to be in lieu of a natural support.

This is to include:

- o Activities that are to be completed within the family environment.

- o Activities that may not be unreasonable for a family member, neighbor, or friend, to accompany and or complete.

Given that claimant's father has been the college personal assistant provider for claimant and many of the most recent goals are not within the realm of personal assistant services, an independent assessment is appropriate to assess claimant's progress in order to know how to better meet claimant's needs, and what service is best. In the past, claimant has received behavioral and adaptive services, and those are likely more appropriate to meet claimant's goals of becoming independent. IRC was willing to increase claimant's personal assistant hours temporarily in order to have claimant undergo a consultation with an applied behavioral analysis vendor, but claimant's mother would not accept the offer. The services that claimant needs to become more independent must be provided by a skilled provider.

24. Anthony Dueñez is a Program Manager for IRC who is familiar with claimant. He is the one who sent the Notice of Proposed Action in this case. Mr. Dueñez's testimony echoed the testimony of Ms. Rubalcava and Ms. Slaughter, and he

reiterated that personal assistance is not appropriate for things like meal preparation, exercise, or social recreation. Mr. Dueñez added that ILS services are designed for these types of things, and would be an appropriate service, not a personal assistant. He also added that claimant receives IHSS hours, a generic resource, and claimant's family member is the IHSS provider, which means that family member is being paid for things like meal preparation, grocery shopping, running errands, and things of that nature. Claimant has 68 hours, but the total possible is 283 or 284, and there is no evidence they have requested additional IHSS hours to address the things claimant mother seeks.

### **Claimant's Mother's Testimony**

25. Claimant's mother's testimony was hard to follow. She referred for much of her testimony to the complaint she made with the Department of Developmental Services, indicating she wants IRC to be held accountable for violating claimant's rights, which is not the issue in this proceeding. Claimant's mother believes claimant should be receiving 194 hours of personal assistance.

Claimant's mother claimed someone in the past either abused claimant or was not "respecting" the time that person worked with claimant. She started telling a story about a "wet" blanket that upset claimant, which did not make sense. In sum, she said she does not agree to outside vendors (other than claimant's family) providing services. She does not want people in her home, and claimant does not want people in their home.

Claimant's mother claimed she was forced to sign two "blank documents" and also said in some document she wrote the word "pending" but did not refer to any exhibits that contained that information. She said she wrote "pending" because that



was her way of accepting the hours because she was told by claimant's consumer services coordinator that if she did not sign, claimant would not get anything.

Claimant's mother said claimant is 24 years old and going to college. He needs "protective supervision." According to the law, if an organization does not provide a service that works for claimant, IRC has to give him the service he wants. Claimant is not an experiment, he is a human being and his program needs to work for him. Claimant does not need any stress in his life.

## **LEGAL CONCLUSIONS**

### **Burden and Standard of Proof**

1. In a proceeding to determine whether an individual is eligible for services, the burden of proof is on the claimant to establish by a preponderance of the evidence that IRC should fund the requested service. (Evid. Code, §§ 115, 500; *McCoy v. Bd. of Retirement* (1986) 183 Cal.App.3d 1044, 1051-1052.)

### **The Lanterman Act**

2. The Legislature enacted a comprehensive statutory scheme known as the Lanterman Developmental Disabilities Services Act (Welf. & Inst. Code, § 4500 et seq.) to provide a pattern of facilities and services sufficiently complete to meet the needs of each person with developmental disabilities, regardless of age or degree of handicap, and at each stage of life. The purpose of the statutory scheme is twofold: 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. (*Assn. for Retarded Citizens v. Dept. of Developmental Services* (1985) 38 Cal.3d 384, 388.) Welfare and Institutions Code section 4501 outlines the state's responsibility for persons with developmental disabilities and the state's duty to establish services for those individuals.

3. Welfare and Institutions Code section 4512, subdivision (b) defines "services and supports" as:

[S]pecialized services and supports or special adaptations of generic services and supports directed toward the alleviation of a developmental disability or toward the social, personal, physical, or economic habilitation or rehabilitation of an individual with a developmental disability, or toward the achievement and maintenance of independent, productive, normal lives. The determination of which services and supports are necessary for each consumer shall be made through the individual program plan process. The determination shall be made on the basis of the needs and preferences of the consumer or, when appropriate, the consumer's family, and shall include consideration of a range of service options proposed by individual program plan participants, the effectiveness of each option in meeting the goals stated in the individual program plan, and the cost-effectiveness of each option . . . Nothing in this subdivision is intended to expand or authorize a new or different service or support for any

consumer unless that service or support is contained in his or her individual program plan.

4. The department is the public agency in California responsible for carrying out the laws related to the care, custody and treatment of individuals with developmental disabilities under the Lanterman Act. (Welf. & Inst. Code, § 4416.) In order to comply with its statutory mandate, DDS contracts with private non-profit community agencies, known as “regional centers,” to provide the developmentally disabled with “access to the services and supports best suited to them throughout their lifetime.” (Welf. & Inst. Code, § 4620.)

5. A regional center’s responsibilities to its consumers are set forth in Welfare and Institutions Code sections 4640-4659.

6. Welfare and Institutions Code section 4646 requires that the IPP and provision of services and supports be centered on the individual and take into account the needs and preferences of the individual and family. Further, the provision of services must be effective in meeting the IPP goals, reflect the preferences and choices of the consumer, and be a cost-effective use of public resources.

7. Welfare and Institutions Code section 4648 requires regional centers to ensure that services and supports assist individuals with developmental disabilities in achieving the greatest self-sufficiency possible and to secure services and supports that meet the needs of the consumer, as determined by the IPP. This section also requires regional centers to be fiscally responsible.

8. In implementing IPPs, regional centers are required to first consider services and supports in natural community, home, work, and recreational settings. (Welf. & Inst. Code, § 4648, subd. (a)(2).) Services and supports shall be flexible and

individually tailored to the consumer and, where appropriate, his or her family. (*Ibid.*) A regional center may, pursuant to vendorization or a contract, purchase services or supports for a consumer in order to best accomplish all or any part of the IPP. (Welf. & Inst. Code, § 4648, subd. (a)(3).)

9. The regional center is required to consider all the following when selecting a provider of consumer services and supports: a provider's ability to deliver quality services or supports to accomplish all or part of the consumer's individual program plan; provider's success in achieving the objectives set forth in the individual program plan; the existence of licensing, accreditation, or professional certification; cost of providing services or supports of comparable quality by different providers; and the consumers, or, where appropriate, the parents, legal guardian, or conservative of a consumer's choice of providers. (Welf. & Inst. Code, § 4648, subd. (a)(6).)

10. The regional center is also required to consider generic resources and the family's responsibility for providing services and supports when considering the purchase of regional center supports and services for its consumers. (Welf. & Inst. Code, § 4646.4.)

## **Evaluation**

11. Claimant had the burden of proving that he is entitled to an increase in his college personal assistant services from 97 hours per month to 176 hours per month for activities such as meal preparation, running errands, and walking to the park to exercise. Claimant did not meet his burden.

The activities indicated by claimant's mother at the informal meeting, and which are noted in the Notice of Proposed Action dated June 11, 2021, as well in the May 2020 progress report from Maxim, do not fall under the scope of college personal

assistant services. They are not part of the contracted services Maxim provides as a college personal assistant services vendor. The types of services noted are more appropriately addressed by an independent living services provider, applied behavioral analysis provider, or even, perhaps, an increase in IHSS hours. In that respect, there are generic resources available to meet those goals, as well as natural supports (the family) that can address claimant's needs. With respect to personal assistant services for an adult, other than in the college setting, the services indicated in the purchase of service policy are designed to teach someone to live independently. That is exactly what the ILS provider was trying to do in summer of 2020 before claimant's mother terminated those services.

The letter from the director of Stellar Living indicates claimant's mother terminated claimant's ILS services because the family thought ILS was to provide a service of completing household duties such as the "family laundry, cleaning up the entire home, and cooking for the family." Teaching claimant to do household chores for the entire family is not a goal stated in any of claimant's IPPs, in the Notice of Proposed Action, or even in the fair hearing request. It is also not something that is designed to help claimant learn to live independently. Services and supports are to assist claimant – not to provide daily housekeeping services in claimant's family home. If claimant's mother wants claimant to complete chores tending to the family or family home, or take claimant out for social recreation and errands, claimant's family is the natural support that can oversee that work. Further, IHSS is a generic support that can also oversee claimant or provide protective supervision during those tasks or have a caretaker do those tasks, and that is a generic resource that has not been fully exhausted.

IRC's witnesses were very well-versed in their knowledge, skills, and abilities, and in their understanding of the potential services available to help claimant thrive and live more independently. Based on their testimony, those services would be services provided by a skilled professional, such as independent living services or applied behavioral analysis services, not college personal assistant services or any other kind of personal assistant services. While claimant's mother would prefer the family provide all services, and while consumer's individual preferences are taken into consideration, when those preferences are incompatible with purchase of service policies or claimant's needs, the purchase of service policies and claimant's needs/goals are given more weight.

At this point in time, especially given that claimant's father is the provider of claimant's personal assistant services, and claimant's mother seems to have a difference of opinion regarding what services should actually be provided, or who should provide them, it is appropriate for IRC to conduct an independent assessment to determine how many hours are actually needed for claimant's college personal assistant – or if any other services (i.e. ILS, applied behavioral analysis, etc.) beyond December 31, 2021, are more appropriate.

Accordingly, claimant's appeal for an increase in college personal assistant services must be denied. Claimant shall continue to receive 97 hours per month of college personal assistant services through December 31, 2021.

Further, claimant **shall** submit to an independent assessment arranged by IRC to determine what services (i.e. college personal assistance, ILS, ABA, etc.) are appropriate for claimant to become more independent (and to meet his IPP goals) beyond December 31, 2021. The independent assessment should be completed by December 31, 2021. Claimant shall submit to the independent assessment, which shall

be scheduled by IRC, in consultation with claimant. IRC and claimant may agree to continue the 97 hours per month of college personal assistant services beyond the December 31, 2021, date if an independent assessment cannot be scheduled by December 31, 2021.

## **ORDER**

Claimant's appeal is denied.

1. Claimant shall continue to receive 97 hours per month of college personal assistant services through December 31, 2021.

2. Claimant shall submit to an independent assessment arranged by IRC to determine what services (i.e. college personal assistance, ILS, ABA, etc.) are appropriate for claimant to become more independent (and to meet his IPP goals) beyond December 31, 2021. The independent assessment should be completed by December 31, 2021.

3. The independent assessment shall be scheduled by IRC, in consultation with claimant. IRC and claimant may agree to continue the 97 hours per month of college personal assistant services beyond the December 31, 2021, date if an independent assessment cannot be scheduled by December 31, 2021.

4. If IRC eliminates or reduces any college personal assistant hours below the 97 hours per month currently approved, it shall issue a Notice of Proposed Action in accordance with the law, if claimant's mother does not agree to the reduction.

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DATE: November 30, 2021

KIMBERLY J. BELVEDERE

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.**