

**BEFORE THE
DEPARTMENT OF DEVELOPMENTAL SERVICES
STATE OF CALIFORNIA**

In the Matter of:

CLAIMANT

and

SAN ANDREAS REGIONAL CENTER, Service Agency.

DDS No. CS0018076

OAH No. 2024060354

PROPOSED DECISION

Administrative Law Judge Juliet E. Cox, State of California, Office of Administrative Hearings, heard this matter on May 16 and 23, 2025, by videoconference.

Attorney Mark Wojciechowski represented claimant. Claimant's parents, but not claimant, were present.

Director's Designee James F. Elliot represented service agency San Andreas Regional Center (SARC).

Oral and documentary evidence was received. The record was closed, and the matter was submitted for decision on May 23, 2025.

ISSUE

Must SARC (1) reimburse claimant for the costs, other than room and board, of his placement in an out-of-California residential program since April 2024, and (2) continue paying the costs of this program, other than room and board, until such time as claimant is able to return safely to California?

FACTUAL FINDINGS

1. Claimant is a young adult who is a SARC consumer because he has substantially disabling autism spectrum disorder. He is conserved, and his parents and sister are his conservators.
2. Until April 2024, claimant lived in California. Aside from a period between September 2022 and May 2023 when claimant lived in Los Angeles (as described below in Findings 13 and 14), he lived in his family's home in the SARC service area.
3. In April 2024, claimant moved to Idaho. He receives educational and practical support services there, as described below in Findings 17 and 18.
4. Claimant's parents pay for claimant's housing and food in Idaho. Claimant asked SARC to pay for the educational and practical support services claimant receives in Idaho.
5. By Notice of Action dated April 15, 2024, SARC declined claimant's request, on the ground that SARC's staff members had not had an adequate opportunity to investigate potential in-California services for claimant.

6. SARC staff members then evaluated claimant's needs and investigated available California services to meet those needs. By subsequent Notice of Action dated May 15, 2024, SARC again declined claimant's request for SARC to pay for his services in Idaho, on the ground that comparable and adequate services are available to claimant within California.

7. Claimant appealed these denials.

8. Before the hearing on claimant's appeal, claimant and SARC agreed to present a request to the Director of the Department of Developmental Services (DDS) for approval for SARC to pay for claimant's services in Idaho. The request emphasized the cost-effectiveness of claimant's placement in Idaho, as compared to similar services SARC might fund for claimant in California. The DDS Director denied this request.

9. Claimant contends that services comparable to those he receives in Idaho are not available to him in California. He seeks an order from DDS authorizing and compelling SARC (1) to reimburse him for the cost of his Idaho services since April 2024 and (2) to continue to pay for these services until appropriate services become available for him in California.

10. SARC contends that claimant does not need and never has needed services that are unavailable in California. For this reason, SARC contends that SARC appropriately denied claimant's request for SARC to pay for services to claimant in Idaho, that the DDS Director correctly denied the parties' request for SARC to pay for these services, and that DDS should deny claimant's appeal.

Claimant's Adult Living Experiences

11. Claimant graduated from high school in May 2022. He and his parents explored several options for him to continue his education after high school. Claimant chose to attend a program for developmentally disabled young adults at the University of California, Los Angeles (the Pathways program).

12. An Individual Program Plan (IPP) for claimant in February 2022 described his interest in attending a "community integration program/post graduate program" after high school, to provide "housing services, transportation, and supported living services." An IPP addendum in September 2022 confirmed that SARC would fund the supportive living services (SLS) that the Pathways program provided to claimant for the 2022–2023 academic year.

13. During the academic year that began in September 2022, claimant attended the Pathways program. He lived in a two-bedroom apartment with three other program participants (two in each bedroom). Program participants attended non-academic classes that focused on adult living skills training.

14. Claimant was not successful in the Pathways program.

a. He was unable to live cooperatively with his roommates, because he was inconsiderate of their needs and preferences and because he refused to clean up after himself or to perform his share of household chores. Ultimately, the student with whom claimant shared a bedroom (who also has autism spectrum disorder involving communication challenges) became so angry at claimant that he threatened claimant with a knife.

b. Despite his clear need for adult living skills training, however, claimant also largely refused to participate in the program's classes.

At the end of the 2022–2023 academic year, Pathways program administrators notified claimant that he could not return to the program for the 2023–2024 academic year.

15. Claimant returned to his parents' home in June 2023. Claimant and his parents did not notify claimant's SARC service coordinator at this time that claimant had returned to live with his parents, that he would not return to the Pathways program in fall 2023, or that his Pathways experience had prompted them to reconsider claimant's service needs. Although the IPP described in Finding 12 states that it expires in January 2023, claimant and his parents did not contact claimant's SARC service coordinator again until March 2024.

16. Claimant and his parents were not happy living together in and after June 2023. Claimant was uncooperative with his parents' efforts to help him improve his time and money management skills, his hygiene, and his social life. Instead, he was angry and physically aggressive. Claimant briefly held a job at a roller rink, but lost it in December 2023 after stealing from a cash register.

17. After claimant lost his job, his parents decided to seek housing and support for him outside their home. They engaged a consultant to help them identify appropriate programs or services. By the time claimant's parents contacted claimant's SARC service coordinator in March 2024 to schedule a new IPP meeting, they already had chosen to enroll claimant in a program in Idaho (the Gemba program). According to claimant's parents, the Gemba program offers claimant "academic support, educational support, independent living support, social supports within the

community, group support meetings, medicinal distribution and management, and other personalized supports.”

18. Claimant moved to Idaho in mid-April 2024. He shares an apartment with a roommate, in which each resident has his own bedroom and bathroom. With significant support, claimant has two jobs (one regular and one seasonal). An aide visits claimant’s apartment several times per day to check in on him, and provides transportation to claimant to his jobs, for shopping, and for recreational activities. Claimant’s parents believe that he currently is thriving in the Gemba program.

Claimant’s Needs and Available Services

19. Claimant’s disability-related needs are not unusual for a young adult with autism spectrum disorder who is a regional center consumer. SARC serves many similar consumers, using local vendors.

INCOME

20. Although SARC uses DDS funding to pay for services that consumers need specifically because of their qualifying developmental disabilities, SARC consumers generally use their own resources to pay for ordinary adult living expenses such as rent and groceries. Such resources may include income from employment; public assistance; or financial support from family, friends, or charitable organizations.

21. Claimant has been only intermittently employed, and does not have significant assets. Without ongoing financial support, claimant cannot pay for his own living expenses, and cannot satisfy a typical landlord’s creditworthiness standards.

22. SARC has referred claimant to the California Department of Rehabilitation (DOR) for vocational training services. The evidence does not establish that he has applied to DOR for any services.¹

23. When claimant turned 18 in early 2022, he applied for Social Security Disability Income (SSDI). He had no work history, however, and for this reason was ineligible for SSDI. Claimant reapplied for SSDI in 2024, and again received notice that he is ineligible.

24. Claimant also has applied for Supplemental Security Income (SSI). A letter in evidence dated August 18, 2022, states that the Social Security Administration (SSA) denied this application because claimant had failed to submit all documentation SSA requested and because he had failed to attend a "consultative exam." SARC staff members have recommended legal aid resources to claimant's conservators regarding claimant's eligibility for SSI. The evidence does not establish that claimant has reapplied for SSI, however, or that his conservators have sought legal assistance to understand his potential eligibility and to prepare a persuasive application.

25. The evidence does not establish whether claimant and his family have sought advice from legal experts or from financial planners regarding the extent (if any) to which claimant's family reasonably can provide financial support to him in adulthood. Likewise, the evidence does not establish whether claimant and his family

¹ Claimant's parent's testimony suggested that claimant and his family believe DOR should have initiated contact with them after receiving SARC's referral. The testimony did not explain why claimant or his conservators have never contacted DOR themselves, however.

have sought advice regarding methods for claimant's family to provide financial support to him while preserving his potential eligibility for SSI, or for other public assistance such as Medicaid or below-market-rate housing.

HOUSING

26. Claimant's conservators hold the power to choose a residence for claimant.

27. Some SARC consumers with developmental disabilities similar to claimant's live in residential care homes that offer not only shelter but also meals, medication management, and social opportunities. In 2024, SARC referred claimant to several residential care homes, but his conservators have not deemed any of them suitable for claimant.

28. Claimant's conservators do not believe that a residential care home would be suitable for claimant, for two reasons. First, they believe that claimant should have his own bedroom and bathroom. Second, they believe that claimant's mental health would deteriorate if he needed to live with other developmentally disabled adults, because his own developmental disability leads him to perceive others with similar disabilities as "weird," and as unacceptable companions. In light of all evidence, these concerns are reasonable.

29. Other SARC consumers with developmental disabilities similar to claimant's live in rental housing, or in housing that they or their families own, with staff support as appropriate for shopping, cooking, household chores, medication management, and similar activities that the consumers need to live safely alone or with roommates.

30. Some SARC consumers who do not wish to live in residential care homes or in other congregate or institutional housing need assistance identifying and procuring housing that is suitable for their needs and that they can afford. Claimant's conservators have asked SARC for such assistance. Claimant's SARC service coordinator has referred them to the Housing Choices Coalition (HCC), an organization that serves many SARC consumers, for this assistance.

31. HCC refers SARC consumers whose incomes are too low to afford market-rate housing to providers offering below-market-rate housing. HCC has identified several such potential residences for claimant, although the availability of housing for persons such as claimant who have no income or assets at all is limited.

32. SARC also can offer short-term rental subsidies to help its consumers avoid homelessness. Such subsidies require proof of a lease (to confirm the subsidy amount) as well as evidence of efforts to secure long-term income by undertaking vocational training or applying for public assistance. SARC staff members have explained the availability of such a short-term rental subsidy, as well as the conditions on such a subsidy, to claimant's family.

33. Finally, for a SARC consumer who is not creditworthy, and who does not have a friend or family member able to serve as a creditworthy lessee or lease guarantor for the consumer's residence, SARC has a Master Lease program with HCC. In this program, HCC serves as the lessee for a residence that the SARC consumer subleases from HCC. SARC staff members also have explained this program's availability to claimant's family.

34. Despite the matters stated in Findings 22 through 24 and 32, claimant's parents have asked SARC staff members repeatedly to promise claimant a specific

housing subsidy before they, as claimant's conservators, will commit him to leasing or subleasing a residence. Claimant's parents have never stated clearly, however, either to SARC staff members or to HCC staff members, whether they are able or willing to assist claimant in procuring housing, such as by subsidizing his rent or by serving as the creditworthy lessees or lease guarantors for a residence that claimant occupies. The evidence does not establish whether claimant's parents are able or willing to provide either kind of assistance to claimant.

SUPPORT FOR ACTIVITIES OF DAILY LIVING

35. Claimant's most recent IPP states his need for assistance in managing money, keeping his home clean, shopping for and cooking food, taking medication properly and timely, and organizing his daily schedule.

36. For SARC consumers who do not live in residential care homes, SLS vendors typically provide the assistance described in Finding 35.

37. Numerous SLS vendors serve SARC consumers, although the particular vendors available to a consumer depend on factors such as location, specific services, and staff availability. For this reason, claimant must choose a residence before becoming an SLS vendor's client.

SOCIAL, EDUCATIONAL, AND RECREATIONAL OPPORTUNITIES

38. Claimant would like to participate in social, educational, and recreational activities in his community. SARC consumers similar to claimant participate in such programs, often with SARC support. Claimant has not identified any specific activities, however, because he has not yet chosen a local place to live.

LEGAL CONCLUSIONS

1. The Lanterman Act entitles claimant to an administrative fair hearing to review SARC's service decisions. (Welf. & Inst. Code, § 4710 et seq.) Claimant bears the burden in this matter to prove that the Lanterman Act requires SARC to deliver the services and supports he requests.

2. The Lanterman Act restricts SARC's authority to expend funds it receives from DDS to purchase services outside California. Specifically (with exceptions that do not apply to claimant), Welfare and Institutions Code section 4519 permits SARC to purchase such out-of-state services only with approval from the DDS Director. Moreover, section 4519 permits the DDS Director to approve such out-of-state service purchases only if "the proposed service or an appropriate alternative, as determined by the director, is not available from resources and facilities within the state." (Welf. & Inst. Code, § 4519, subd. (a).)

3. If a consumer asks a regional center to purchase an out-of-state service, the regional center must evaluate the consumer's request with reference to "options to serve the consumer in California." (Welf. & Inst. Code, § 4519, subd. (a).) The regional center may ask the DDS Director to approve such an out-of-state service purchase only if the regional center has conducted a "comprehensive assessment" and supports its request with "details regarding all options considered and an explanation of why these options cannot meet the consumer's needs." (*Ibid.*) The DDS Director may authorize a regional center to purchase an out-of-state service for six months, with extensions available only upon similar comprehensive re-assessment. (*Ibid.*)

4. As summarized in Findings 15 through 17, SARC was unable before claimant moved initially to Idaho to conduct a "comprehensive assessment" as

described in Welfare and Institutions Code section 4519, with respect either to claimant's needs or to the availability within California of services meeting those needs. SARC did not err in declining claimant's initial request to subsidize the services he receives in Idaho.

5. Claimant's focus on his lack of income as a barrier to his receiving services in California is misplaced. Currently, claimant's parents pay for his room and board in Idaho. If claimant's parents paid for his room and board in California, the matters summarized in Findings 19 and 35 through 38 demonstrate that SARC could and would provide services allowing claimant to attempt supported living in his local community. Moreover, although claimant's parents lawfully may decline to continue paying for claimant's room and board now that claimant is an adult, they bear responsibility as his conservators to seek public assistance on his behalf. The Lanterman Act does not assign SARC responsibility either for securing an income for claimant or for subsidizing his living expenses over the long term if he cannot secure an income.

6. Claimant's focus on his inability to obtain an apartment as a barrier to his receiving services in California also is misplaced. As with an income, the primary obligation to identify and procure a residence for claimant lies with claimant's conservators. (Welf. & Inst. Code, § 4689, subd. (h).) Because many SARC consumers, like claimant, have low incomes, SARC offers all consumers assistance in locating and procuring affordable housing, and offers short-term rental subsidies if necessary to assist a consumer in transitioning from one housing setting to another. (*Id.*, subds. (c), (j).) The matters stated in Findings 27 through 33 show that SARC has offered these services to claimant, and that such assistance remains available if claimant wishes to use it. The matters summarized in Findings 20 through 25 and 26 through 34 do not

show, however, that no housing suitable for claimant is available within SARC's service area.

7. In light of the matters stated in Findings 19 through 38 and in Legal Conclusions 5 and 6, claimant has failed to demonstrate that the DDS Director should authorize and direct SARC to pay for the services claimant has received and may continue to receive in Idaho. To the contrary, all matters summarized in Findings 18 through 38 show that appropriate living arrangements and supportive services for claimant are available within California. The barriers to claimant's moving back to California do not relate to unique needs that only the Gemba program or another out-of-state program can fulfill.

8. Without DDS Director approval, which the DDS Director has not given and which SARC need not seek again, SARC may not reimburse claimant's parents for the Gemba program and may not pay its costs in the future.

ORDER

Claimant's appeal is denied.

DATE:

JULIET E. COX

Administrative Law Judge

Office of Administrative Hearings

BEFORE THE
DEPARTMENT OF DEVELOPMENTAL SERVICES
STATE OF CALIFORNIA

In the Matter of:

Claimant

OAH Case No. 2024060354

Vs.

DECISION BY THE DIRECTOR

San Andreas Regional Center,

Respondent.

ORDER OF DECISION

On May 29, 2025, an Administrative Law Judge (ALJ) at the Office of Administrative Hearings (OAH) issued a Proposed Decision in this matter.

The Department of Developmental Services (Department) takes the following action on the attached Proposed Decision of the ALJ:

The Proposed Decision is adopted by the Department as its Decision in this matter. The Order of Decision, together with the Proposed Decision, constitute the Decision in this matter.

This is the final administrative Decision. Each party is bound by this Decision. Either party may request a reconsideration pursuant to Welfare and Institutions Code section 4713, subdivision (b), within 15 days of receiving the Decision or appeal the Decision to a court of competent jurisdiction within 180 days of receiving the final Decision.

Attached is a fact sheet with information about what to do and expect after you receive this decision, and where to get help.

IT IS SO ORDERED on this day June 20, 2025.

Original signed by:
PETE CERVINKA
Director