

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

In the Matter of:

CLAIMANT,

vs.

**NORTH LOS ANGELES COUNTY REGIONAL CENTER,
Service Agency.**

DDS No. CS0018502

OAH No. 2024070023

(Consolidated with DDS No. CS0018501,

OAH No. 2024060991; and DDS No. CS0018503,

OAH No. 2024070028)

PROPOSED DECISION

Taylor Steinbacher, Administrative Law Judge, Office of Administrative Hearings, State of California, heard this matter via videoconference on October 7, 2024. This matter was consolidated, for hearing purposes only, with two other cases: (1) a case pertaining to Claimant's older sister, OAH number 2024060991; and (2) a case pertaining to Claimant's older brother, OAH number 2024070028. Separate proposed decisions are being issued for each case.

Rachel Milman, Attorney at Law, represented Claimant at the fair hearing. Claimant's mother (Mother) was also present throughout the hearing. Names are omitted to protect the privacy of Claimant and his family.

Aaron Abramowitz, Enright & Ocheltree, LLP, represented North Los Angeles County Regional Center (NLACRC).

Oral and documentary evidence was received. The record was closed, and the matter was submitted for decision on October 7, 2024.

ISSUE

Should the regional center's decision to decrease the amount of Personal Assistant services Claimant receives be upheld?

EVIDENCE RELIED UPON

Documents: NLACRC Exhibits 1–27; Claimant's Exhibits A–I.
Witnesses: For NLACRC: Lisa DePiro, NLACRC Behavior Consultant; Amy Gandin, NLACRC Consumer Services Provider. For Claimant: Mother.

FACTUAL FINDINGS

Parties and Jurisdiction

1. Claimant is a six-year-old boy who lives with Mother, his father (Father), and his three siblings in the catchment area served by NLACRC.

2. NLACRC is a regional center designated by the Department of Developmental Services (DDS) to provide funding for services and supports to persons with developmental disabilities under the Lanterman Act. (Welf. & Inst. Code, § 4500 et seq.)

3. Claimant receives services from NLACRC under the Lanterman Act. He also participates in the regional center's Self-Determination Program (SDP). (See Ex. 20 [SDP budget].) On May 24, 2024, NLACRC sent Mother a Notice of Action (NOA), stating that the regional center intended to: (1) reduce the number of personal assistance (PA) service hours Claimant receives, and (2) change the ratio of care for PA services from the individual to the sibling rate, with both changes to begin in the next year of Claimant's SDP budget. (Ex. 2, p. A8.) (The NOA also proposed to deny Mother's funding request for other, unrelated services. That issue, referred to as "Request 1" throughout the NOA, was resolved by the parties before the hearing and is not at issue here.) As further explained in the NOA, NLACRC intends to reduce Claimant's PA services as follows: (a) during the school year, Claimant would receive 23 hours per week at "Sibling Rate 3" for all three siblings who receive regional center services, and 11 hours per week at "Sibling Rate 2" for Claimant and his older sister; (b) during school breaks or holidays, Claimant would receive 22 hours per week at "Sibling Rate 3" and 11 hours per week at "Sibling Rate 2." (*Id.*, p. A9.)

4. On June 19, 2024, Mother filed a fair hearing request to appeal NLACRC's proposed action regarding Claimant's PA services. (Ex. 5.) This hearing ensued.

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NLACRC's Evidence

CLAIMANT AND THE SERVICES HE RECEIVES

5. Claimant qualifies for regional center services based on a diagnosis of autism spectrum disorder. (Ex. 9, p. A49.) As noted in Claimant's Individual Program Plan (IPP) with NLACRC, he

has some areas of behavioral concern. He tantrums daily when transitioning or if something is taken away from him. Mother reported that when upset, he will cry, hit, kick and occasionally makes himself throw up. If [Claimant] is tired, his tantrums can last between 30-40 minutes long. He is regularly non-compliant and can be rigid when it comes to schedules. [Claimant] doesn't like losing and is sensitive to certain food textures. He regularly elopes and will try to leave the house if not supervised at all times.

(*Id.*, p. A47.)

6. As a result of Claimant's most recent IPP, he receives one-on-one PA services for 10 hours per day on non-school days and five hours per day on school days and Saturdays. (Ex. 9, p. A48.) These services are provided to "ensure his safety and success" in mainstream settings. (*Ibid.*) He also receives 46 hours per month of respite services. (*Id.*, p. A47.) Although he was not receiving them at the time his most recent IPP was drafted, Claimant also receives In-Home Supportive Services (IHSS).

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7. Claimant also has an Individualized Education Program (IEP) with his school district due to his autism spectrum disorder diagnosis. Claimant's most recent IEP noted:

Student's area of strength-

[Claimant] is a bright student in Transitional Kindergarten at [school]. . . . [Claimant's] area of relative strength is in the area of Attention Seeking. [Claimant] demonstrated[] using a gesture (reaching)[,] will seek attention for personal assistance in manipulating the environment, approaches another person by walking and seek[s] attention. [Claimant] is able to follow his peers, mimic their actions as long as it is a preferred task.

Student's area of needs-

[Claimant's] areas of concern are Reaction to others, Reaction to Objects, Interaction with Objects, Concept of Self, and Interaction with Others. [Claimant] was unable to score any points in the area of Concept of Self and Interaction with Others. Throughout the assessment, [Claimant] displayed difficulty with sustaining joint attention and remaining. [Claimant] struggles with sustaining participation in cooperative play and cooperative learning when in unpreferred task.

Impact of Disability-

Student's disability of Autism and deficits in social

functioning affects their ability to engage in cooperative learning lessons and cooperative play/social engagement activities which impacts their involvement and progress in the general education curriculum.

(Ex. 17, p. A126.) Claimant's IEP also noted his parent reported that Claimant's first preschool did not allow Claimant to attend "without a 1:1" aide, which necessitated a change to a new preschool—the new preschool also required a one-on-one aide. (*Id.*, p. A122.) But when Claimant's current school attempted to corroborate his parent's reporting by contacting Claimant's preschool teachers, they "indicated there were no behavior concerns," and that Claimant "is able to follow classroom routines and activities with the general classroom (ratio is 1:12)[.]" (*Ibid.*) These observations were consistent with observations made by Claimant's current school staff. (*Ibid.*) Claimant does not receive any one-on-one in-class aid through his current school district. (*Id.*, pp. A148–A149.)

LISA DEPIRO

8. Lisa DePiro is a Behavior Consultant in the Clinical Department at NLACRC. She has a master's degree in clinical psychology and is a board-certified behavior analyst. DePiro has been board certified since 2012 and has conducted thousands of behavioral observations and written reports documenting those observations. In preparing these written reports for NLACRC, she reviews documents provided by the regional center's service coordinators and then conducts her own observation of the client.

9. NLACRC requested that DePiro conduct a behavioral observation of Claimant in part to determine "whether or not clinical team recommends continuation

of individual rate [PA] services, including overnight PA, as child appears high functioning and does not wake through the night.” (Ex. 14, p. A80.) During these observations, DePiro looks for the intensity and frequency of challenging behaviors and compares that to what is expected for a child of the subject’s age—the more frequent or the higher intensity of the behaviors observed, the more likely that one-on-one support is appropriate.

10. DePiro conducted an observation of Claimant in Claimant’s home on April 8, 2024. Claimant’s older sister was also present, but his older brother was not. According to DePiro, the children’s school and extracurricular schedules made it difficult to get all three together for an observation at once, and moreover, Mother thought it would be better to observe Claimant’s older brother in a social recreation setting, rather than at home.

11. Mother reported concerns about Claimant to DePiro, including: (1) jumping into couches and pillows; (2) a lack of safety awareness; (3) eloping if his hand is not being held; (4) needing to hold something at all times; and (5) having a lot of energy and needing to be active to burn that energy off. (Ex. 14, p. A81.) During DePiro’s observation, Claimant “was in the kitchen watching [Roblox] and eating his snack with [his older sister]. After snack, he went to the living room and stacked the pillows and crashed into them. He then went into the room and played the violin for [DePiro] and [his Consumer Services Coordinator]. He was able to follow instructions and engage in conversation with [DePiro] and [his Consumer Services Coordinator].” (*Ibid.*)

12. DePiro also reviewed Claimant’s IEP. According to DePiro, the information from Claimant’s IEP was significant because his school observed that Claimant can follow classroom routines and activities without the need for one-on-one

assistance. Moreover, Claimant's behavior described in the IEP generally conformed to DePiro's personal observation of Claimant.

13. Based on her observation and a review of documents including Claimant's IEP, DePiro made several recommendations about Claimant's ongoing PA services. First, she recommended that "traditional" rather, than "specialized" PA services, be provided. (Ex. 14, p. A81.) DePiro explained that traditional PA services are for supervision and support to engage in age-appropriate activities, while specialized PA services are required when a person exhibits significant self-injurious behaviors, property destruction, or physical aggression. DePiro recommended traditional PA services because Claimant did not demonstrate those behaviors.

14. Next, DePiro recommended the "sibling rate" be paid when PA is provided to Claimant at home, including at night. (Ex. 14, p. A81.) DePiro explained that PA services are a "second set of hands" to assist the caregiver with morning and evening routines and making sure the child is engaged in appropriate activities, and general supervision and support. In recommending the "sibling rate," DePiro had concluded that Claimant did not need an additional person to provide one-on-one PA support. Rather, one PA could split their attention between Claimant, his older sister, and his older brother, as applicable, during that time. If Claimant was the only child in the home, DePiro would not recommend that NLACRC provide PA services at all, as it is her opinion that Claimant's parents could handle those responsibilities.

15. On cross-examination, DePiro stated that she had conducted a behavior observation of Claimant and his siblings before 2024, likely in 2022. At the time, she recommended that PA services continue to be provided at the traditional level and at an individual rate, rather than a sibling rate. But DePiro could not recall what, if anything, had changed about Claimant between DePiro's 2022 and 2024 observations

to suggest that a change to the level of Claimant's PA services was appropriate. Rather, DePiro stated her recommendation regarding the level of PA service Claimant required was based on her most recent observation of Claimant and the documents she was provided in connection with that observation.

16. Also while on cross-examination, DePiro stated she did not contact Claimant's adaptive skills training (AST) provider to receive additional information about Claimant before making her recommendations. She explained that Mother stated during the observation that Claimant had not been receiving those services for very long or consistently, and thus information from that provider would not be helpful. DePiro did, however, review an initial assessment written by the provider, as noted in her report. (See Ex. 14, p. A80.)

17. As discussed below, a letter from the AST provider about Claimant's progress was introduced into evidence in Claimant's case-in-chief. (Ex. E.) The letter states that the provider conducted a Vineland-3 Comprehensive Interview of Claimant in late September 2024 and that the results of that interview, along with their own observations, suggest Claimant "requires one on one attention from an adult[.]" DePiro stated she did not have this information at the time of her observations and recommendation. But she also explained that the Vineland-3 assessment results referenced in the letter are based on parent interviews and not observations of the provider.

AMY GANDIN

18. Amy Gandin is a Consumer Services Supervisor at NLACRC. She hires, trains, works with, and supervises 14 Consumer Services Coordinators (CSC) who coordinate services for clients of the regional center. Gandin's supervisory

responsibilities include case guidance, needs determinations, and planning implementation. Claimant, his older sister, and his older brother are served by a CSC under Gandin's supervision.

19. In her hearing testimony, Gandin explained that the regional center's decision to increase or decrease PA services is made collaboratively. The group making that decision may include her, the client's CSC, the regional center's clinical team, and a manager. The regional center also takes into consideration the concerns and reporting of the client's parent or guardian. Ultimately, Gandin stated, a parent or guardian's reports or concerns must be corroborated with objective evidence by the regional center before services or supports can be provided to the client. Gandin contends the decision to change the amount of PA services Claimant would receive was made as a result of DePiro's observations and reporting and after collaboration with NLACRC staff.

20. Gandin explained that, between services provided by NLACRC, IHSS, and Claimant's school, Claimant receives funding for assistance or supervision every hour of every day. (Ex. 23 [calendar created by Mother showing the services Claimant receives hour to hour].) This includes in-home or out-of-home PA assistance, respite time for parents, IHSS services, or attending school. In other words, there are zero hours per day in which Claimant is not receiving some kind of funding for assistance or supervision, whether he is attending school or on a school break.

21. According to Gandin, it is only appropriate in exceedingly rare cases, like when a client has major medical fragility or intense challenging behaviors, for a client to receive funding for services every hour per day as Claimant does. Gandin further explained that the regional center expects parents to exercise care over children with

developmental disabilities to the same degree that they would need to care for a child without a disability.

22. Gandin stated her belief that, at the time the regional center initially agreed to provide services that resulted in Claimant having zero unfunded hours per day it “may have been appropriate” based on his needs at the time. But Gandin also expressed some skepticism that the amount of PA services NLACRC initially authorized for Claimant was appropriate and in hindsight thought it was “not looked at closely enough at the time.” NLACRC’s decision to decrease those hours in the second year of Claimant’s SDP budget was a way to correct that potential oversight.

Claimant’s Evidence

MOTHER’S TESTIMONY

23. Claimant and his siblings live with Father and Mother. Father is a physician who works long hours when he is home. Father often travels for conferences and speaking engagements and is out of the house up to 50 percent of the time. Mother is an accountant who works from home 32 hours per week.

24. The family home is 4,400 square feet in size and has six bedrooms. One of the bedrooms is downstairs; that room houses the family’s musical instruments, including a piano. The children all have their own bedrooms upstairs. The kitchen and dining room are downstairs. According to Mother, the house’s layout is not “open concept,” so when Mother is in the kitchen, she cannot see the dining room, living room, or the room where the musical instruments are kept.

25. Claimant enjoys stacking couch pillows and cushions and running into them. (See Ex. B.) Claimant does not understand that parts of the sofa, such as the

armrests and the internal wooden framing, are hard and so he hurts himself when he runs into those parts of the sofa. Claimant also enjoys climbing onto and jumping from the sofa and the home's stairs. None of the flooring surfaces in the home are carpeted, so Claimant can injure himself easily if he jumps from a high distance and lands on a hard surface. (See Ex. D, pp. B9–B11 [showing injuries to Claimant's teeth and mouth he sustained when jumping into the sofa and landing hard on the floor].) Claimant also regularly puts inedible objects, such as coins, toys, and remote controls in his mouth. (See *id.*, pp. B13–B14.) In addition, Claimant frequently likes to hide from Mother because he thinks it is funny—this can lead him to be in unsafe situations where he is at risk of injury. (*Id.*, p. B16 [note from parent of Claimant's classmate stating Claimant was nearly struck by a car that was backing up while he was playing behind it without supervision].)

26. Claimant and his older sister both have issues with rigidity and inflexibility which causes them to have frequent altercations, leaving Claimant injured. (Ex. D, pp. B12, B15 [showing injuries to Claimant's arms and face from fighting with his older sister]; Ex. H [teacher noting that Claimant sustained injuries fighting with older sister, teacher concerned Claimant's recent aggressive behavior was learned from older sister].)

27. Mother began keeping a log of Claimant's challenging behaviors in anticipation of the hearing. (Ex C.) These include, for example: (1) jumping off of furniture and the home's stairs; (2) putting inedible objects in his mouth; (3) hiding from Mother in parking lots; (4) opening the home's front door without permission when a stranger rang the doorbell; and (5) fighting with his older sister. According to Mother, these behaviors happen multiple times a day if Claimant does not receive one-on-one supervision at home.

28. Claimant has been diagnosed with insomnia. It takes him about 60 minutes to fall asleep. Claimant requires someone to stay in the room with him to make sure he falls asleep. He can wake up in the middle of the night and will leave his room if he is not supervised.

29. Father provides protective supervision to Claimant, which is funded through IHSS. Claimant's grandmother provides protective supervision if Father is not home. Protective supervision is provided because when Claimant has one-on-one supervision he exhibits fewer troubling behaviors.

30. Mother, Claimant, Claimant's older sister, the children's CSC, and DePiro were all present at the family's home for the April 8, 2024, behavioral observation. Mother had fed Claimant and his older sister and allowed them to watch television before the observation. Mother attempts to manage Claimant and his older sister's challenging behaviors by allowing them to watch television or use an iPad, as that is the only way she can keep them in the same room to be supervised. After the period in which Claimant and his older sister were watching television, Claimant went to the living room where he was not visible and was unsupervised—Claimant "crashed" into the sofa cushions during that time. Later, Claimant joined his older sister in the room with the musical instruments and played violin for the CSC and DePiro, as mentioned in DePiro's report.

31. Claimant's AST provider wrote a letter that was introduced into evidence and discussed above. The letter notes that Claimant has behaviors that pose safety concerns, which include climbing and jumping from high surfaces, eloping, and physical aggression towards peers. According to the AST provider, Claimant can be redirected "to alternative, appropriate behaviors, however, [Claimant] will engage in [negative] behaviors when he does not have one on one attention from an adult."

32. Mother sleeps about four hours per night. Despite Claimant's schedule having zero unfunded hours, Mother contends that this does not mean she demonstrates no parental responsibility for Claimant or her other children. Mother did not put any of the time she spends supervising and caring for her children into the calendar she prepared for NLACRC because she was not asked to do so. On the contrary, Mother cooks, cleans, bathes, toilets the children as necessary, takes the children to doctor's appointments, assists them with homework, and prepares their backpacks and lunches for the next day, all of which is not listed expressly in the calendar.

Analysis of Evidence

33. The weight of the evidence supports a finding that Claimant no longer needs the same level of PA services that he has been receiving to date. Gandin's un rebutted testimony was that a client should only have zero unfunded hours per week when there is a significant medical need or there are intense, challenging behaviors. (Factual Findings 20-21.) Although Claimant's challenging behaviors present cause for concern, Claimant's IEP shows that Claimant does not require one-on-one assistance in a classroom setting where he spends several hours per week, and instead can "follow classroom routines and activities with the general classroom[.]" (Factual Findings 7, 12.) And DePiro's observation of Claimant corroborated a similar finding that Claimant does not need one-on-one assistance at home. (Factual Findings 11, 13-14.)

34. DePiro also provided persuasive testimony undermining the evidentiary weight of the letter from Claimant's AST stating that Claimant requires one-on-one supervision. DePiro explained that the results of the Vineland-3 assessment the provider used was based solely on Mother's reporting, not on the provider's

observations. Moreover, the opinions of the AST provider that Claimant required one-on-one supervision were conclusory. Further reporting and information would be necessary to meet the high threshold of intense, challenging behavior necessary for a significant level of one-on-one supervision, as Gandin explained. Although Claimant argues that DePiro could have contacted Claimant's AST provider for additional information, DePiro credibly testified that she was told Claimant had not been receiving those services long enough to provide helpful information at the time she conducted her observation. (Factual Finding 16.)

35. Mother provided credible testimony about Claimant's challenging behaviors, including how those challenges can be exacerbated when Claimant and his older sister are together and can be mitigated with one-on-one supervision. But DePiro's observation and the information from Claimant's school showing that Claimant does not need one-on-one supervision in a classroom setting were more persuasive.

LEGAL CONCLUSIONS

Jurisdiction

1. The Lanterman Act governs this case. (Welf. & Inst. Code, § 4500 et seq.; all further undesignated statutory references are to the Welfare and Institutions Code.) The Legislature enacted the Lanterman Act 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.)

2. DDS is the state agency charged with implementing the Lanterman Act; DDS, in turn, may contract with private, non-profit community agencies called “regional centers” to provide developmentally disabled persons with access to the services and supports best suited to them throughout their lifetime. (§§ 4416, 4620.)

3. Under the Lanterman Act, an administrative proceeding, also known as a “fair hearing,” is available to determine the rights and obligations of the parties, including regional center decisions with which the claimant disagrees. (§§ 4700–4717.) Claimant timely requested a fair hearing, and jurisdiction for this case was established. (Factual Findings 1–4.)

Standard and Burden of Proof

4. The party proposing a change in existing services or asserting a new claim holds the burden of proof in administrative proceedings. (See, e.g., *In re Conservatorship of Hume* (2006) 140 Cal.App.4th 1385, 1388 [the law has “a built-in bias in favor of the status quo,” and the party seeking to change the status quo has the burden “to present evidence sufficient to overcome the state of affairs that would exist if the court did nothing”].) The standard of proof for these proceedings is the preponderance of the evidence because no other law or statute, including the Lanterman Act, provides otherwise. (Evid. Code, § 115.) This standard is met when the party bearing the burden of proof presents evidence that has more convincing force

than that opposed to it. (*People ex rel. Brown v. Tri-Union Seafoods, LLC* (2009) 171 Cal.App.4th 1549, 1567.)

5. Here, NLACRC bears the burden of proving by a preponderance of the evidence that its proposal to change the level of PA services it will provide to Claimant is justified.

Individual Program Plan Process

6. The determination of which services and supports are necessary for each regional center client is made through the IPP process with the regional center. (§ 4512, subd. (b).) This 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 [IPP] participants, the effectiveness of each option in meeting the goals stated in the [IPP], and the cost-effectiveness of each option." (*Ibid.*; § 4646, subs. (a), (b) [noting that the IPP is developed through an "individualized needs determination" that includes the client as well as their parents, guardians, or authorized representatives, and should reflect "the needs and preferences of the consumer, and, as appropriate, their family."].)

7. The IPP process includes "[g]athering information and conducting assessments to determine the life goals, capabilities and strengths, preferences, barriers, and concerns or problems of the person with developmental disabilities" and should include a review of the "needs of the child and the family unit as a whole." (§ 4645.5, subd. (a)(1).) Assessments to determine a regional center client's "capabilities and strengths, preferences, barriers, and concerns or problems," should be conducted "by qualified individuals and performed in natural environments

whenever possible.” (*Ibid.*) Such assessments “shall reflect awareness of, and sensitivity to, the lifestyle and cultural background of the consumer and the family.” (*Ibid.*)

8. When selecting the types of services and supports appropriate for inclusion in a regional center client’s IPP, the regional center must consider

the family’s responsibility for providing similar services and supports for a minor child without disabilities in identifying the consumer’s service and support needs as provided in the least restrictive and most appropriate setting. In this determination, regional centers shall take into account the consumer’s need for extraordinary care, services, supports and supervision, and the need for timely access to this care.

(§ 4646.4, subd. (a)(4).) With respect to PA services, NLACRC’s Service Standards provide that

Personal assistant services are to assist with bathing, grooming, dressing, toileting, meal preparation, feeding, and protective supervision is a typical parental responsibility for minor children. Personal assistant services for minor children will be considered on an exception basis when the needs of the consumer are of such a nature that it requires more than one person to provide the needed care. There may be exceptional circumstances as a result of the severity and/or intensity of the developmental disability that may impact the family’s ability to provide specialized care and supervision while maintaining the child in the

family home. Eligibility and/or use of generic services such as [IHSS] will be explored and accessed where possible prior to NLACRC funding as an exception.

(Ex. 2, p. A10.)

Self-Determination Program

9. The SDP allows participants and their families to have an annual budget for services and supports to meet the objectives of the participant's IPP. (See § 4685.8.) SDP is an alternative to the regional center's traditional IPP planning and service provision process and it requires the client's opt-in to participate. (*Id.*, subd. (d).) "'Self-determination' means a voluntary delivery system consisting of a defined and comprehensive mix of services and supports, selected and directed by a participant through person-centered planning, in order to meet the objectives in their IPP. Self-determination services and supports are designed to assist the participant to achieve personally defined outcomes in community settings that promote inclusion." (*Id.*, subd (c)(6).)

10. The SDP "shall be available in every regional center catchment area to provide participants and their families, within an individual budget, increased flexibility and choice, and greater control over decisions, resources, and needed and desired services and supports to implement their IPP." (§ 4685.8, subd. (a).) The SDP "shall only fund services and supports provided pursuant to this division that the federal Centers for Medicare and Medicaid Services determines are eligible for federal financial participation." (*Id.*, subd. (c)(6).)

11. When developing a client's SDP budget for their IPP, the regional center must "determine the services, supports and goods necessary for each consumer based

on the needs and preferences of the consumer, and when appropriate the consumer's family, and the effectiveness of each option in meeting the goals specified in the IPP and the cost effectiveness of each option[.]” (§ 4685.8, subd. (b)(2)(H)(i).)

12. Adjustments to a regional center client’s annual SDP budget can be made as needed if the regional center determines that an increase or decrease in the budget is appropriate due to “a change in the participant's circumstances, needs, or resources[.]” (§ 4685.5, subd. (m)(1).) A participant’s annual SDP budget can also be adjusted as part of an annual review process conducted by the regional center. (§ 4685.5, subd. (o).)

Analysis

13. NLACRC met its burden to show by a preponderance of the evidence that its proposed changes to Claimant’s PA service level are justified. NLACRC had the authority to make changes to Claimant’s SDP budget as necessary or as part of an annual review of his needs, and that is what it did here. (Legal Conclusion 12.) As Gandin explained, this decision was driven in part by the Lanterman Act’s requirement to account for “the family’s responsibility for providing similar services and supports for a minor child without disabilities.” (Legal Conclusion 8.) NLACRC also considered Claimant’s family’s needs, as required by the Lanterman Act. (See Legal Conclusions 6–7, 11.) As DePiro explained, if Claimant was the only child in the household, she would not recommend any funding for PA services at all. (Factual Finding 14.) In other words, it is precisely because Claimant has siblings who are also regional center clients that he will continue receiving PA services, albeit less than he received before.

14. Neither Gandin nor DePiro could explain what, if anything, changed between 2022 and 2024 that required a reduction in Claimant’s PA services—NLACRC’s

justification to reduce those services would likely be even more persuasive if it could articulate what those changes were. Gandin conceded, however, that the quantity and level of PA services it initially provided to Claimant may have been an oversight. Regardless, NLACRC presented sufficient evidence to support its decision to reduce those services based on Claimant's current needs. (Factual Findings 11–14, 20–22, 33–35.)

15. There is no doubt Mother takes her parental responsibilities seriously and performs them diligently under the trying circumstances of raising three children with developmental disabilities. But the evidence established Claimant does not need the same level of PA services that he was receiving previously, and the regional center is justified in reducing those services at this time.

ORDER

Claimant's appeal is DENIED.

DATE:

TAYLOR STEINBACHER
Administrative Law Judge
Office of Administrative Hearings

BEFORE THE
DEPARTMENT OF DEVELOPMENTAL SERVICES
STATE OF CALIFORNIA

In the Matter of:

Claimant

OAH Case No. 2024070023

Vs.

DECISION BY THE DIRECTOR

North Los Angeles Regional Center,

Respondent.

ORDER OF DECISION

On October 16, 2024, an Administrative Law Judge (ALJ) at the Office of Administrative Hearings (OAH) issued a Proposed Decision in this matter.

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

The Proposed Decision is adopted by DDS 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 November 13, 2024.

Original signed by:

Pete Cervinka, Acting Director