

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

In the Matter of:

CLAIMANT,

v.

REGIONAL CENTER OF THE EAST BAY, Service Agency.

DDS No. CS0019148

OAH No. 2024070297

PROPOSED DECISION

Administrative Law Judge Juliet E. Cox, State of California, Office of Administrative Hearings, heard this matter on August 19, 2024, by videoconference.

Appeals Specialist Mary Dugan represented service agency Regional Center of the East Bay (RCEB).

Claimant's conservator represented claimant, who was not present for the hearing.

The matter was submitted for decision on August 19, 2024.

ISSUES

1. Between June 1, 2024, and July 31, 2024, with respect to personal care assistants (Service Code 320), what is the maximum total amount of money that claimant may pay to providers?
2. Between June 1, 2024, and July 31, 2024, with respect to specialized therapeutic support (Service Code 372), what is the maximum total amount of money that claimant may pay to providers?
3. On and after August 1, 2024, must RCEB continue making funds available to claimant for personal care assistants (Service Code 320) or licensed vocational nurses (Service Code 361), and if so at what maximum hourly rates, daily hours, or total amounts?
4. On and after August 1, 2024, must RCEB continue making funds available to claimant for specialized therapeutic support (Service Code 372), and if so at what maximum hourly rates, daily hours, or total amounts?

FACTUAL FINDINGS

1. Claimant was born in May 2004. She lives with her conservator, who also is her mother, and siblings. Claimant is an RCEB consumer because she is substantially disabled by Rett Syndrome, a developmental disorder that impairs her mobility, including hand use, and communication.

SDP Plan for June 1, 2023, Through May 31, 2024

2. Since June 1, 2023, claimant has arranged services for her own support through the Self-Determination Program (SDP). At all times relevant to the issues in dispute in this appeal, claimant obtained Financial Management Services (FMS) through Mains'l California.

OVERALL PLAN AND BUDGET

3. Claimant and RCEB agreed on an Individual Program Plan (IPP) for claimant in late April 2023. In pertinent part, the IPP states claimant's need for significant personal care: either two persons qualified as personal care assistants (PCAs) or one PCA and one licensed vocational nurse (LVN), both persons serving claimant for 16 hours every day. Claimant needs these persons' assistance with activities such as eating, toileting, and home health care. The IPP also states several needs and goals relating to education and communication.

4. Claimant and RCEB also agreed in late April 2023 on a total SDP budget for claimant of \$970,372.97 for the calendar year beginning June 1, 2023. This SDP budget includes \$262,800 for PCAs (calculated assuming one PCA, 16 hours per day, 365 days, \$45 per hour), \$443,840 for LVNs (calculated assuming one LVN, 16 hours per day, 365 days, \$76 per hour), and \$150,607.28 for specialized therapeutic support (STS) (calculated assuming 1,336 total STS hours, \$112.73 per hour).

5. In May 2023, claimant presented her SDP spending plan to RCEB. RCEB approved it, effective June 1, 2023. This SDP spending plan states that claimant will spend \$262,800 in Service Code 320 for PCAs (one PCA, 16 hours per day, 365 days, \$45 per hour), \$443,840 in Service Code 361 for LVNs (one LVN, 16 hours per day, 365 days, \$76 per hour), and \$150,607.28 in Service Code 372 for STS (1,336 total hours for

several specified tasks, \$112.73 per hour). In accordance with the IPP, the SDP spending plan also notes that if an LVN is not available, claimant instead may procure services from an additional PCA, using funds available for Service Code 361.

6. During the calendar year between June 1, 2023, and May 31, 2024, claimant neither sought nor received RCEB's approval for any revisions to her SDP budget or to her SDP spending plan.

PERSONAL AND NURSING CARE (SERVICE CODES 320 AND 361)

7. For the year between June 1, 2023, and May 31, 2024, claimant was unable to procure as many hours of PCA or LVN services as she needed. By May 31, 2024, according to a report from Mains'I in evidence, she had spent only \$74,826 from her overall PCA budget (Service Code 320) of \$262,800, and only \$16,685.15 from her overall LVN budget (Service Code 361) of \$443,840.

8. Claimant was hospitalized in fall 2023. At other times between June 1, 2023, and May 31, 2024, when claimant was unable to procure sufficient PCA and LVN services, her conservator provided much of claimant's care.

9. Before June 1, 2024, claimant's conservator did not receive payment for any of the services she provided to claimant as a substitute for PCAs or LVNs.

10. In late May 2024, claimant's conservator arranged with Mains'I to add claimant's conservator to claimant's payroll as a PCA. She also directed Mains'I to record her pay rate as \$250 per hour. Claimant's conservator took these steps before submitting the two-month extension spending plan described below in Finding 21. Neither she nor Mains'I alerted RCEB to either action.

11. In May, June, and July 2024, claimant had two other PCAs on her staff who were not members of claimant's family. She paid each of them an hourly wage of \$37.13 per hour.

SPECIALIZED THERAPEUTIC SUPPORT (SERVICE CODE 372)

12. The Mains'l report described in Finding 7 states that during the year beginning June 1, 2023, and ending May 31, 2024, claimant spent \$115,675 on STS services from her overall STS budget (Service Code 372) of \$150,607.28.

13. Judy Lariviere provided these STS services through her consulting business, Assistive Tech 4 All. Specifically, Mains'l paid Assistive Tech 4 All on claimant's behalf for 661 service hours at \$175 per hour. Assistive Tech 4 All provides similar services to other clients, and customarily charges these clients \$175 per hour of Lariviere's time.

14. The evidence does not establish whether, as of May 31, 2024, claimant and Lariviere had completed all STS tasks claimant's SDP budget and spending plan identified for the SDP year ending May 31, 2024.

SDP Plan for June 1, 2024, Through July 31, 2024

15. Claimant intends to attend college beginning in September 2024. In spring 2024, uncertainty about the contributions she could expect from the California Department of Rehabilitation (DOR) toward her college expenses delayed development of her SDP budget for the calendar year beginning June 1, 2024.

16. Claimant and RCEB agreed in late May 2024 to extend claimant's SDP budget and spending plan for two months, to await clearer information from DOR before committing to a further annual SDP budget and spending plan. Several

disagreements have arisen between claimant and RCEB regarding implementation of this two-month extension, causing claimant to request this hearing.

BUDGET

17. For the period between June 1, 2024, and July 31, 2024, the summer SDP budget on which claimant and RCEB agreed states that claimant will continue funding PCA and LVN services from the budget amounts that she had not used between June 1, 2023, and May 31, 2024, for Service Codes 320 and 361. As a total Service Code 320 budget, however, the two-month extension document states the full original Service Code 320 budget for the 365 days beginning June 1, 2023, and ending May 31, 2024 (\$262,800), without deduction for funds claimant had used before May 31, 2024. Similarly, as a Service Code 361 budget, the two-month extension document states the full original Service Code 361 budget for the 365 days beginning June 1, 2023, and ending May 31, 2024 (\$443,840), without deduction for funds claimant had used before May 31, 2024. The evidence does not explain these discrepancies.

18. The summer 2024 SDP budget identifies support that Lariviere will provide to claimant during the summer. Some of the tasks the budget identifies for Lariviere are new, and relate specifically to helping claimant prepare for college. In addition, the summer 2024 SDP budget states that Lariviere will continue to train claimant's PCA and LVN staff members, as she had between June 1, 2023, and May 31, 2024. In total, the summer 2024 SDP budget identifies \$29,189.16 in new funding for Lariviere's services.

19. The summer 2024 SDP budget identifies several other services and supports for claimant that were not in her SDP budget or spending plan for the year that ended May 31, 2024. In addition, it states that claimant will have access to other

SDP funds “for their intended use during the extension period, should any dollars remain.”

20. The summer 2024 SDP budget totals the amounts it identifies for PCAs and LVNs (summarized in Finding 17), for Lariviere’s new and continuing services (summarized in Finding 18), and for the new services referenced in Finding 19. It states that claimant’s overall SDP budget for the period beginning June 1, 2024, and ending July 31, 2024, is \$779,046.

PERSONAL AND NURSING CARE (SERVICE CODES 320 AND 361)

21. For the period between June 1, 2024, and July 31, 2024, the summer SDP spending plan on which claimant and RCEB agreed states (like the plan for the year ending May 31, 2024) that claimant will pay for a PCA at \$45 per hour for 16 hours per day, and either for a second PCA at \$45 per hour for 16 hours per day or for an LVN at \$76 per hour for 16 hours per day.

22. For the 61 days beginning June 1, 2024, and ending July 31, 2024, this plan implies total spending in Service Codes 320 and 361 of as little as \$87,840 (if claimant hires only PCAs) or as much as \$118,096 (if claimant hires one PCA and one LVN, each working 16 hours per day). Nevertheless, the plan document includes a column calculating the potential spending total in each service code for 365 days, not for only 61 days.

23. For the period beginning June 1, 2024, and ending June 15, 2024, claimant’s conservator reported to Mains’I that she had provided PCA services to claimant. A time report that RCEB obtained from Mains’I showed that claimant’s conservator had reported serving claimant as a PCA for 293.08 hours during this period. On 8 of these 15 days, she reported that she had provided 23.98 hours of PCA

services to claimant; on 5 other days she reported that she had provided 15.98 hours of PCA services to claimant. Mains'I paid claimant's conservator on June 26, 2024, for some or all of these hours, at the \$250 hourly rate that she had requested.

24. In late June 2024, claimant's conservator asked Mains'I to raise her hourly pay rate further, to \$2,500 per hour. In an accompanying email, she explained, "I want to make sure that the spending plan funds are fully utilized before the extension period expires."

25. A Mains'I staff member contacted RCEB staff member Jenifer Castañeda by email on June 26, 2024, about claimant's conservator's request. At about the same time, Castañeda and her supervisor, Lindsay Meninger, learned through a reimbursement request from Mains'I that Mains'I had paid claimant's conservator for PCA services as described above in Finding 23.

26. Meninger notified Mains'I on June 28, 2024, that RCEB would not reimburse Mains'I for paying any of claimant's PCAs, including claimant's conservator, at a higher hourly rate than the \$45 per hour stated in claimant's SDP spending plan.

27. Mains'I responded to this notice by telephoning claimant's conservator to say that RCEB had instructed Mains'I not to pay claimant's PCAs at all. Mains'I also sent a letter by email to claimant's PCAs other than claimant's conservator stating that "services under service code 320 have been suspended temporarily for [claimant]" and that from that day forward Mains'I would not honor any request for payment for providing PCA service to claimant.

28. Mains'I later retracted its letter to claimant's PCAs, but not before one of them had resigned.

29. Claimant's written appeal states that Meninger directed Mains'I to send the letter described in Finding 27. The evidence at hearing establishes that Meninger did not direct Mains'I to send any such letter, or to refuse to pay claimant's PCAs. No one from Mains'I participated in the hearing to explain Mains'I's actions.

30. A report in evidence from Mains'I covering the month beginning July 1, 2024, and ending July 31, 2024, states that Mains'I paid claimant's conservator during this month for 743.48 hours of PCA service (23.98 hours per day for 31 days), at \$47 per hour. This report also states that Mains'I paid claimant's other PCAs during this month for 432.88 service hours, at \$37.13 per hour. In total, for the period beginning June 1, 2024, and ending July 31, 2024, this report states that Mains'I paid \$113,688.38 on claimant's behalf for PCA services in Service Code 320, and nothing in Service Code 361 (LVN services).

31. Claimant's conservator has significant professional experience as a marketing and branding executive. She did not present evidence suggesting that she has nursing training, or ever has held a vocational nursing license.

32. In addition to helping claimant with the personal care activities described in Finding 3, claimant's conservator has organized a single member limited liability company, with herself as the sole member, to market and sell jewelry that claimant designs. Using her professional experience, she has developed marketing plans and activities, and has arranged or intends to arrange for production and delivery to customers of claimant's products. The evidence does not establish whether this business has begun to generate revenue exceeding its expenses. In furtherance of her business plan, however, claimant intends to study commercial art in college.

SPECIALIZED THERAPEUTIC SUPPORT (SERVICE CODE 372)

33. For the period between June 1, 2024, and July 31, 2024, the SDP spending plan on which claimant and RCEB agreed calls for claimant to pay \$160.38 per hour for STS.

34. The summer 2024 SDP spending plan states further, and more specifically, that claimant will receive up to 181 service hours from Lariviere (totaling \$29,029) in Service Code 372 as well as up to 5 service hours (totaling \$802) from Lariviere in Service Code 334 (individual training and education). These amounts total \$29,831, which is slightly more than the \$29,189.16 additional budget amount this summer 2024 SDP plan identifies for Lariviere's services.

35. Correspondence in evidence between claimant's conservator and Mains'I shows that as of mid-August 2024, Mains'I had paid Assistive Tech 4 All \$24,762.50 for services rendered to claimant by Lariviere in Service Code 372 between June 1, 2024, and July 31, 2024, and nothing for services in Service Code 334. Mains'I also had received but not yet paid additional Assistive Tech 4 All invoices, for services rendered by Lariviere to claimant in this period, totaling \$22,312.50. Mains'I notified claimant's conservator that Mains'I could pay at most \$4,266.50 toward these unpaid invoices. This payment would bring the total payments under Service Code 372 for the period beginning June 1, 2024, and ending July 31, 2024, to \$29,029, and would leave \$18,046 outstanding.

36. The invoices submitted by Assistive Tech 4 All to Mains'I for services to claimant beginning June 1, 2024, and ending July 31, 2024, are not in evidence. For this reason, the evidence does not establish whether any of the outstanding, unpaid invoices are for work by Lariviere that the SDP spending plan for the period beginning

June 1, 2024, had characterized as falling within Service Code 334. Likewise, the evidence does not establish whether the total of Assistive Tech 4 All's invoices exceeded the \$29,831 total stated in the summer 2024 SDP extension plan because Assistive Tech 4 All charged claimant \$175 per hour rather than \$160.38, or for some other reason such as having provided more service hours or performed more tasks than the summer 2024 SDP extension plan had identified.

37. Claimant's written appeal states that Meninger took action on July 1, 2024, "reducing the hourly budgeted rate . . . thereby lowering the total budget for code 372." Claimant also states that Meninger has acted to "restrict the use of the funds remaining in SDP Spending Plan code 372," rather than permitting claimant to draw not only from Service Code 372 but also from Service Codes 320 and 361 to pay Assistive Tech 4 All for Lariviere's STS service to claimant.

38. Aside from communicating the two-month extension information summarized in Findings 33 and 34 to Mains'l, no evidence shows that Meninger or any other RCEB employee has communicated in any way with Mains'l regarding claimant's STS service from June 1, 2024, through July 31, 2024. In particular, the evidence does not show that anyone from RCEB has directed Mains'l to pay Assistive Tech 4 All for Lariviere's time during this period at any hourly rate lower than the rate stated on Assistive Tech 4 All's invoices. The evidence also does not show that anyone from RCEB has notified Mains'l that RCEB will refuse to reimburse Mains'l for the Assistive Tech 4 All invoices Mains'l already had paid as of mid-August. Finally, the evidence does not show that anyone from RCEB has notified Mains'l that RCEB will refuse to reimburse Mains'l for paying additional Assistive Tech 4 All invoices even if the overall total amount invoiced in any spending code remains equal to or less than the total stated for that code on the summer 2024 SDP budget and spending plan.

SDP Plan On and After August 1, 2024

39. Claimant's written appeal asks that she receive "aid paid pending" resolution of the appeal. Specifically, she asks that the two-month SDP budget and spending plan referenced in Findings 17 through 22, 33, and 34 "remain in full force and effect until a decision is made."

40. According to correspondence in evidence between Meninger and claimant's conservator, RCEB's intention is to continue authorizing reimbursement to claimant's FMS for spending in accordance with the "spending plan in place at the time of the appeal." In the alternative, RCEB has proposed to claimant's conservator that claimant and RCEB memorialize an SDP budget and spending plan for the year beginning August 1, 2024, that reflects points on which they agree, reserving other items for potential addition after resolution through negotiation or fair hearing. The evidence does not establish whether any service provider for claimant has, or has not, received payment through claimant's FMS for services to claimant beginning on or after August 1, 2024.

LEGAL CONCLUSIONS

1. As a participant in SDP, claimant has significant personal discretion about how she uses public funds to pay for services and supports that she needs because of her developmental disability. (Welf. & Inst. Code, § 4685.8, subd. (a).)

2. Because claimant uses public funds that are available to her for specific reasons and purposes, however, her discretion even in SDP is not limitless. In particular, as is relevant to the issues in dispute between claimant and RCEB, a regional center must exercise supervisory control over both the overall budget available to an

SDP participant and how the SDP participant spends those funds. (Welf. & Inst. Code, § 4685.8, subds. (c)(3), (c)(7), (j), (m), (r)(6).)

SDP Plan for June 1, 2024, Through July 31, 2024

3. Claimant reads the document summarizing her summer 2024 SDP budget and spending plan to say that the entire budget amount (\$779,046) stated on that document should have been available to her during June and July 2024 for any purpose.¹ Claimant generally is correct that her available budget for summer 2024 was ample for her needs, but resolution of any dispute about her precise total budget is not necessary on this appeal.

PERSONAL CARE ASSISTANCE (SERVICE CODE 320)

4. The matters stated in Findings 21 and 22 establish that claimant's SDP spending plan authorized Mains'I to pay up to \$87,840 for PCA services to claimant between June 1, 2024, and July 31, 2024.

5. Claimant contends that RCEB erred by directing Mains'I (as described in Finding 26) to limit payments to claimant's conservator to the hourly rate stated in claimant's SDP spending plan. Instead, she contends that RCEB must permit her conservator to obtain all available summer 2024 budget funds by charging claimant

¹ Alternatively, a reasonable interpretation of the language summarized in Finding 17 (stating that claimant may continue until July 31, 2024, to draw on PCA and LVN funds that were in her budget for the year that ended May 31, 2024, but that she did not use during that year) would make the total budget in these two service codes for the extension period \$615,128.85.

\$250 or even \$2,500 per hour for round-the-clock PCA services. Claimant offers several arguments to support her position, none of which is meritorious.

Participant Discretion to Set Providers' Pay Rates

6. First, claimant argues that she has complete discretion to set her providers' pay rates, and that RCEB has no authority whatsoever to limit those rates. To support this contention, claimant points to numerous advisory documents for SDP participants, issued by the Department of Developmental Services as well as by various advocacy groups and service providers.

7. Claimant does not misread these documents, which emphasize participant autonomy. The documents do not explain the statutory and regulatory restrictions on SDP funds completely, however. In particular, the Welfare and Institutions Code gives regional centers such as RCEB authority to review and approve not only SDP participants' budgets but also their spending plans.

8. The Welfare and Institutions Code gives regional centers this authority because a regional center must ensure that an SDP participant's spending plan addresses needs arising from eligible developmental disability that the regional center and the consumer have identified in the consumer's IPP. (Welf. & Inst. Code, § 4685.8, subd. (c)(7).) Moreover, a regional center must ensure that the spending plan will allow the consumer to meet these needs throughout the entire budget year. (*Id.*, subd. (m)(3).) Regional centers must ensure that SDP participants do not propose to spend SDP funds on goods or services that participants can and should procure using other resources. (*Id.*, subds. (d)(3)(B), (r)(6).) And finally, regional centers must ensure that SDP participants spend SDP funds only on goods and services "that the federal Centers

for Medicare and Medicaid Services determines are eligible for federal financial participation.” (*Id.*, subd. (c)(6).)

9. The oversight responsibility summarized in Legal Conclusion 8 would be meaningless if SDP participants simply could disregard their SDP spending plans after their regional centers had approved them. Claimant could have sought RCEB’s approval to add a PCA to her staff at a higher rate than her other PCAs,² but she had no authority to do so without RCEB’s approval.

RCEB Abuse of Discretion to Deny Higher Pay Rate

10. Second, claimant argues that even if RCEB does have authority to control her providers’ pay rates, RCEB abused this discretion by denying her request (implicit in her appeal) to pay her conservator \$250 or more per hour. She bases this argument chiefly on the rationale that the previous professional experience, and the service, summarized in Findings 31 and 32 justifies a higher hourly pay rate for claimant’s conservator than for claimant’s other PCAs.

11. PCA services involve assistance in basic activities of daily living, such as eating, bathing, and moving around the home or the community. Claimant offers no support for the assertion that she cannot procure such services on the open market for less than \$250 per hour. To the contrary, the matters stated in Finding 11 show that

² At the hearing, an RCEB staff member stated her belief that claimant’s conservator should not be eligible to be on claimant’s paid staff. Her reasoning is that because claimant uses her conservator rather than an independent facilitator to manage claimant’s SDP participation, the conservator is effectively paying herself for service. RCEB did not instruct Mains’l not to pay claimant’s conservator at all, however.

claimant can and does procure these services within the \$45 per hour rate stated in her spending plan.

12. Although claimant's SDP plan states that claimant may procure LVN services instead of PCA services, at a higher LVN rate, the matters stated in Finding 31 do not show claimant's conservator to have such expertise. And despite claimant's conservator's business experience and service to claimant (summarized in Findings 31 and 32), claimant's IPP and SDP plan do not authorize claimant to substitute marketing and business development consulting services for PCA services.³ Claimant has not established any abuse of discretion by RCEB in directing Mains' not to pay claimant's conservator \$250 per hour or more for PCA services to claimant.

Reimbursement for Past Free Labor

13. Third, claimant argues (pointing to the matters summarized in Findings 7 through 9) that her conservator provided many hours of unpaid service over many months before May 31, 2024, and should be able now to recover compensation for that service.

14. Claimant's conservator is under no legal duty, as her conservator or as her mother, to provide PCA services to claimant. For this reason, claimant's experience in her first SDP year may justify revisions to her budget and spending plan in subsequent years, to reflect claimant's difficulty in hiring PCAs and LVNs and to

³ RCEB and claimant do not dispute that the federal Centers for Medicare and Medicaid Services deem PCA and LVN services eligible for federal financial participation. Claimant offers no evidence to support the proposition that business development services likewise would be eligible.

compensate her conservator fairly for stepping into this gap. Nevertheless, the Welfare and Institutions Code does not authorize claimant's conservator to recover compensation for her past services by providing future services at an unreasonably high hourly pay rate.

Summary

15. RCEB did not unlawfully prevent or threaten to prevent claimant from spending any funds in Service Code 320 between June 1, 2024, and July 31, 2024.

SPECIALIZED THERAPEUTIC SUPPORT (SERVICE CODE 372)

16. The matters stated in Finding 34 establish that claimant's SDP spending plan for June 1, 2024, through July 31, 2024, authorized total spending in Service Code 372 of \$29,029. The matters stated in Finding 35 establish that Mains'I has stated its intent to pay (or by now may have paid) this entire amount on claimant's behalf, and the matters stated in Finding 38 do not establish that RCEB has prevented or threatened to prevent Mains'I from doing so.

17. Claimant reads the language quoted in Finding 19 regarding funds remaining as of May 31, 2024, to mean that all funds she had not spent from Service Code 372 as of May 31, 2024, should have been available to her until July 31, 2024, to cover the remainder of Lariviere's outstanding invoices as summarized in Finding 35. In addition, claimant argues that even more funds should be available in Service Code

372 for the period beginning June 1, 2024, and ending July 31, 2024, because RCEB under-budgeted during the year ending May 31, 2024, for claimant's STS services.⁴

18. These contentions again confuse claimant's SDP budget with her SDP spending plan. Regardless of the budget amount within which claimant must plan her spending, claimant's FMS had and has authority to spend on claimant's behalf only in accordance with her RCEB-approved spending plan. Moreover, claimant offers no authority for the proposition that RCEB must or even may revise an SDP budget or spending plan after the plan period has ended.

19. Whether or not claimant could have sought and received approval from RCEB for Lariviere to provide additional assistance during summer 2024, justifying both a higher budget and a higher spending plan total, the matters summarized in Findings 33 through 38 show that she did not. Moreover, even construing this appeal as a belated request for such spending plan modification (and even assuming authority to grant such a request), the matters summarized in Finding 36 do not show that RCEB should have granted any such request.

20. RCEB did not unlawfully prevent or threaten to prevent claimant from spending any funds in Service Code 372 between June 1, 2024, and July 31, 2024.

⁴ Claimant makes this assertion even though (as stated in Finding 12) she did not use the entire budget amount in this service code before May 31, 2024; even though (as stated in Finding 6) claimant did not raise any concern about under-budgeting during the SDP year that ended May 31, 2024; and even though (as stated in Findings 18 and 34) RCEB did carry forward some unused funds from this service code budget on and after June 1, 2024.

SDP Plan On and After August 1, 2024

21. Claimant's written appeal characterizes Meninger's communications to Mains'I as making "unilateral changes to [claimant's] services and supports," without written notice to claimant, and as having denied claimant's request for continuing aid paid pending resolution of this appeal. The evidence does not support these characterizations. Rather, the matters stated in Findings 26 and 38 show that RCEB, through Meninger, has notified Mains'I that RCEB will not reimburse Mains'I for any payments on claimant's behalf that do not conform to claimant's SDP spending plan for the period beginning June 1, 2024, and ending July 31, 2024. Likewise, the matters stated in Finding 40 show that RCEB intends to continue funding PCA and LVN services to claimant in accordance with the budget and spending plan for summer 2024, and would fund additional STS services in Service Code 372 if claimant and RCEB agreed on them.

Additional Matters

22. All other issues presented at the hearing either are not ripe for decision, or are not within the limited jurisdiction established for the Office of Administrative Hearings and the Department of Developmental Services by Welfare and Institutions Code section 4712.

ORDER

Claimant's appeal is denied. Specifically:

1. For the period beginning June 1, 2024, and ending July 31, 2024, the maximum amount available to claimant for PCA services (Service Code 320) under her

SDP spending plan was \$87,840, representing two PCAs, each working 16 hours per day, at no more than \$45 per hour, for 61 days. RCEB did not err by declining reimbursement to claimant's FMS for payments beyond this total.

2. For the period beginning June 1, 2024, and ending July 31, 2024, the maximum amount available to claimant for STS services (Service Code 372) under her SDP spending plan was \$29,029. RCEB would not err by declining reimbursement to claimant's FMS for payments beyond this total.

3. Absent agreement on a new or amended SDP spending plan, for the period on and after August 1, 2024, claimant may access SDP funds to pay PCAs (Service Code 320) no more than \$45 per hour and to pay LVNs (Service Code 361) no more than \$76 per hour. She may procure either 16 hours per day of PCA service and 16 hours per day of LVN service, or may substitute one hour per day of PCA service for any hour of LVN service she does not procure.

4. Absent agreement on a new or amended SDP spending plan, claimant may not access SDP funds to pay for any further services in Service Code 372.

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. 2024070297

Vs.

DECISION BY THE DIRECTOR

Regional Center of the East Bay

Respondent.

ORDER OF DECISION

On August 29, 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 September 18, 2024.

Original signed by:

Pete Cervinka, Acting Director