

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

**In the Matter of:**

**CLAIMANT**

**and**

**ALTA CALIFORNIA REGIONAL CENTER, Service Agency**

**DDS No. CS0020760**

**OAH No. 2024090820**

**PROPOSED DECISION**

Administrative Law Judge Marcie Larson, Office of Administrative Hearings (OAH), State of California, heard this matter by videoconference on December 12, 2024, and February 13, 2025, from Sacramento, California.

Alta California Regional Center (ACRC) was represented by Robin M. Black, Legal Services Manager for ACRC.

Claimant was represented by her mother. Claimant was not present.

Evidence was received, the record closed, and the matter submitted for decision on February 13, 2025.

## **ISSUE**

Is ACRC required to fund an independent third-party evaluation of claimant to determine if she requires two-to-one support when in community settings?

## **FACTUAL FINDINGS**

### **Background and Jurisdictional Matters**

1. Claimant is a 14-year-old girl found eligible in 2013 for ACRC services and supports under the Lanterman Developmental Disabilities Services Act (Lanterman Act) (Welf. & Inst. Code, § 4500 et seq.), based on her diagnosis of autism with moderate impact and global developmental delay. Claimant resides with her mother in the family home in Davis, California. Since approximately June 1, 2024, claimant has been a participant in the Self-Determination Program (SDP).

2. In March 2024, claimant requested that ACRC add funds to her SDP budget to provide her two-to-one support in all community settings. ACRC denied that request. Ultimately, the parties agreed to a binding Final Mediation Agreement whereby ACRC agreed to pay for an assessment by its clinical staff concerning whether claimant required additional support when participating in community activities with her mother. The assessment was intended to supplement an earlier assessment by Ana Gee, a Behavior Analyst for ACRC, who completed an assessment and issued a report in April 2024 finding that claimant did not need two-to-one support for all community settings or outings.

3. On July 30, 2024, Mary Rettinhouse, Autism Clinical Specialist with ACRC, completed the agreed-upon assessment. She determined claimant does not require

two-to-one support in all community settings. Claimant's mother disagreed with the findings. On August 22, 2024, ACRC issued an NOA denying claimant's request to add funds to her SDP budget to provide her two-to-one support in all community settings.

4. On September 16, 2024, claimant's mother filed an appeal requesting that ACRC fund a "comprehensive assessment completed by a neutral third party" to determine if claimant requires two-to-one support in all community settings.

## **Assessments**

5. On October 18, 2023, Hima Suri, claimant's ACRC Service Coordinator requested Ms. Gee to complete a consultation and assessment to determine if claimant needed crisis services, behavioral respite, and ACRC funding for Social Skills Treatment (SST). On December 8, 2023, Ms. Gee met with claimant and claimant's mother in their home. Ms. Gee issued a report dated April 4, 2024, regarding her observations and recommendations. Ms. Gee did not testify at hearing.

### **DECEMBER 2023 ASSESSMENT**

6. When Ms. Gee arrived at claimant's home, she observed claimant "engaged in schoolwork in her room." Claimant is non-verbal. She responded to Ms. Gee's questions using a letter board to spell out her answers. Claimant also "vocalize[d] and communicated that she needed a 'break' with her communication system." Ms. Gee discussed with claimant's mom claimant's need for SST, Crisis Services, and Behavioral Respite Services. Claimant's mother communicated her concern with claimant's safety when out in the community. Specifically, she had concerns about claimant eloping. Claimant's mother communicated a desire for additional supervision for claimant while in the community setting.

7. As part of Ms. Gee's assessment, she reviewed a November 28, 2023, Intensive Behavioral Intervention Treatment Plan from Kyo, claimant's Applied Behavior Analysis (ABA) provider. Ms. Gee noted that ABA services were in place. Although 20 hours per week was recommended, claimant accessed 18 hours per week, with Tuesdays dedicated to community outings. The ABA provided did not recommend two-to-one staffing in community outings.

8. On January 8, 2024, a planning team meeting occurred to discuss Ms. Gee's assessment and recommendations, and claimant's request. In attendance was claimant's mother, Independent Facilitator Elizabeth Cuevas, Clinical Services Manager Amy McCreary, Service Coordinator Hima Suri, and Ms. Gee. During the meeting, claimant's mother requested funding for two-to-one staffing to be included in claimant's spending budget. However, based on Ms. Gee's evaluation, it was determined that claimant did not require two-to-one support in community settings. Specifically, Ms. Gee recommended the following:

Based on the information obtained through observation, parent report, review of record, services in place (IHSS, respite), safety equipment to support community access (stroller) and other activities outside of the home without the need for 2:1 staffing, the justification for additional 2:1 staffing does not appear warranted in all community settings or outings.

Temporarily, the Service Coordination team had recommended that an additional four hours of respite be provided to [claimant] out in the community for social recreational services. This service will be supported for six

months at a time while ABA continues to work on goals related to safety and elopement in the community.

[Claimant's mother] was in agreement for the additional respite hours for social recreation.

9. On March 25, 2024, ACRC issued an NOA denying claimant's request for money to be added to her SDP budget for two-to-one community support. Claimant's mother disagreed with the recommendation. On April 8, 2024, claimant's mother filed an appeal.

10. On May 9, 2024, the parties agreed to resolve claimant's appeal pursuant to a "Final Mediation Agreement" which includes following relevant terms:

ACRC agrees to fund an assessment by its certified clinical staff of Claimant's need for additional support when claimant is participating in community activities with her mother. Following that assessment, ACRC's clinical staff shall complete a written summary of their findings and recommendations and provide a copy to Claimant's mother.

Claimant's mother agrees to provide to ACRC any and all information or records she would like ACRC's certified clinicians to review and consider in completing the assessment agreed to in Item No. 1 above, prior to completion of that assessment and the summary report.

In consideration of all of the above, Claimant agrees to withdraw her appeal.

The parties acknowledge they have entered into a binding and enforceable agreement.

### **JULY 30, 2024 ASSESSMENT**

11. On June 4, 2024, claimant completed an Individual Program Plan (IPP). The Planning Team included Kristy Marion, claimant's Service Coordinator, Katherine Weston, ACRC Client Service Manager, claimant's mother, and Ms. Cuevas. Ms. Marion and Ms. Weston testified at hearing regarding the June 2024 IPP. Claimant's mother communicated her concerns with claimant's behavior including elopement, property destruction, and refusal to listen to redirection.

Claimant's mother shared that claimant "shuts down and will not respond to any support." Claimant's "ABA provider continues to support [claimant] in this area." The IPP document provided that due to claimant's "extensive care and supervision, her SDP spending plan includes community living support (320) of \$19,086.12 annually for respite services to provide her mother a break in her care and supervision and to help keep [claimant] safe in the community." Per the terms of the Final Mediation Agreement, Ms. Marion "requested an out-of-home assessment with the ACRC clinical team for additional 2:1 respite services/hours."

12. On July 30, 2024, Mary Rettinhouse, Autism Clinical Specialist with ACRC, conducted an observation of claimant in a community setting and made recommendations concerning claimant's request for two-to-one caregiving support. Ms. Rettinhouse issued a report dated August 20, 2024, and testified at hearing consistent with her report.

13. Ms. Rettinhouse obtained her Bachelor of Arts degree in psychology in 2005. Since 2007, Ms. Rettinhouse has been a Certified Behavioral Analyst. In 2017, she

obtained her Master of Science degree in psychology. Ms. Rettinhouse worked as Behavior Specialist for ACRC from 2010 until 2017, and an Autism Clinical Specialist with ACRC since 2017. Her duties include developing and implementing quality assurance procedures and tools for use in evaluating efficacy of ABA services, providing consultations including a situational assessment and functional assessment for clients of all ACRC eligible diagnostic categories and helping to coordinate, review, and monitor parent training, behavior intervention, and one-on-one supports. Ms. Rettinhouse completes approximately 20 assessments per year.

14. Prior to the observation, Ms. Rettinhouse reviewed claimant's 2023 IPP and ABA progress reports. Ms. Rettinhouse also spoke to claimant's mother on the telephone regarding her concerns. Claimant's mother reported that the previous evaluations were conducted in home, but she wanted this clinician to observe claimant during a community outing. Claimant's mother also shared that due to claimant's "lack of safety awareness and behavior of eloping" she requires two-to-one support in the community. She explained that the "primary reason for her elopement in the community is because [claimant] is fearful of small animals, such as cats and dogs. If she sees one of these animals, she will run away and not respond to instructions to stop."

15. On July 30, 2024, Ms. Rettinhouse met claimant and her mother at the University of California, Davis (UC Davis) Arboretum trail. An ABA supervisor was also present for the first part of the observation. Initially, claimant was seated in a stroller. She then walked and pushed the stroller. During the walk, Ms. Rettinhouse observed that claimant was "physically responsive to instructions and questions." She would also use her communication device to respond to questions and communicate. Ms.

Rettinhouse made the following observations regarding claimant's response to animals:

During this time we walked past a group of ducks and two different dogs, one not on a leash and one on a leash.

During the first encounter, but while the dog was approximately 100 feet away, [claimant's mother] prompted [claimant] to sit by herself at a bench while she would go and try to redirect the dog. [Claimant] successfully sat independently on the bench alone waiting for her mom. As her mother approached, so too did the dog as he was roaming off leash and unclear where the owner was. [Claimant] did not appear to react or respond to the dog's presence.

During the second encounter with a dog, who was leashed and with its owners, [claimant] and her mother passed by, free of any incidents or attempts to elope.

16. Ms. Rettinhouse spent over one hour observing claimant in the community setting. Ms. Rettinhouse observed that claimant "reliably responded to both single and multi-step instructions given to her during the observation." She "did not respond in any unsafe manner." Additionally, claimant "was not observed to demonstrate any behavior that may pose a risk to her health and safety."

17. Ms. Rettinhouse made the following opinions and recommendations:

[Claimant] is currently receiving 323 hours of caregiving support per month. This is the total amount of in home



support services and respite services combined. For a typical 14 year old, educational services account for approximately 6.5 hours per day which leaves approximately 7.5 waking hours left on weekdays and approximately 15 hours per day on needed care (not accounting for her time spent in the aforementioned extra-curricular activities). Total needed caregiving hours are estimated to be approximately 260 hours per month which is 63 hours less than what [claimant] is provided (323 hours per month).

Based on the above information, the request for 2:1 caregiving support is not clinically recommended. In addition, it is recommended that existing services and supports be faded systematically based on [claimant's] success in order to increase her opportunities for independence. The currently recommended 20 hours per week of direct ABA intervention which includes 27 goals across skill domains is reflective of an Early Autism Treatment program. [Claimant] met 7 of these 27 proposed goals over the six month service period. The efficacy of this type of treatment is limited to children under age 10. Current national authorities on evidence-based practices such as the National Clearinghouse on Autism Evidence and Practice, 2020 and the National Standards Project published by the National Autism Center both support focused, trainer-to-trainer models of intervention for teens and

young adults. It is recommended that [claimant's] ABA service provider make efforts to align their services with best practices for the field of ABA.

18. Ms. Rettinhouse explained that she did not observe claimant's mother implement recommended behavior strategies. She opined that claimant's mother may benefit from training to assist her with implementing behavior strategies and giving claimant concise directives. Ms. Rettinhouse also explained that two-to-one support in the community can be necessary if a client must be physically restrained. However, there has been no assessed need for claimant to be physically restrained.

### **Claimant's Evidence**

19. Five people testified on claimant's behalf. Each described challenging situations they have encountered with claimant. Claimant's mother explained that claimant is getting bigger and physically stronger. She does not feel safe taking claimant into the community without support. Claimant will often refuse to follow directions. Most recently claimant's mother had to call 911 because claimant refused to leave the park. The 911 operator explained that law enforcement could only speak to claimant, not touch her. As a result, law enforcement did not arrive on the scene to assist claimant's mother in getting claimant into the car to go home.

Claimant's mother does not believe the assessment Ms. Rettinhouse performed was comprehensive because she spent less than an hour with claimant and only observed her in one setting. Claimant's mother believes a comprehensive evaluation requires more time to be spent with claimant in at least two community settings. Claimant's mother believes it is necessary for an independent third party to evaluate claimant's need for two-to-one support in all community settings.

20. Ms. Cuevas has served as claimant's independent facilitator for two years. She also does not believe the assessment Ms. Rettinhouse completed was sufficient. Ms. Cuevas believes Ms. Rettinhouse did not review all of the documentation available concerning safety concerns when claimant is in community settings. Ms. Cuevas believes another evaluation should be completed by a neutral party.

21. Kristin Davis has known claimant since 2013. Ms. Davis was the property manager at the apartment where claimant and her mother lived. Ms. Davis sees claimant and her mother several times a month. She has been present several times in the last year when claimant has become angry and thrown items. She also observed claimant run away from her mother in a parking lot. It took 45 minutes to get claimant back into the vehicle. Ms. Davis explained that claimant is getting bigger and is stronger which makes it difficult for claimant's mother to manage her when she will not cooperate.

22. May Saefong wrote a letter and testified at hearing. She has worked as claimant's respite provider since February 2024. Ms. Saefong also described situations in which claimant would not respond to directions. At least one time, claimant ran ahead of Ms. Saefong when walking into a movie theatre. This concerned Ms. Saefong because it took her time to catch up to claimant. She also explained that claimant will run if she sees a dog because she is fearful of dogs. There are also times when claimant refuses to leave the park. It can take more than an hour to get claimant into the car to go home.

23. Rachel Esveral has known claimant since 2012, when she worked as claimant's respite provider. She has remained friends with claimant's mother. Ms. Esveral was with claimant and her mother recently when claimant refused to leave the

park. It got dark and was cold. Neither Ms. Esveral nor claimant's mother was able to convince claimant to get into the car. They had to physically move her into the car.

## **Analysis**

24. Claimant's mother is clearly devoted to her daughter and is advocating for her needs. Claimant's mother believes another assessment is necessary to properly determine claimant's need for additional support in the community. However, through the Final Mediation Agreement, claimant's mother agreed to have ACRC fund an assessment by its certified clinical staff to determine claimant's need for additional support when claimant is participating in community activities. The request for an assessment was also included in claimant's 2024 IPP, along with additional funding for two-to-one support when claimant participated in recreational activities.

On July 30, 2024, Ms. Rettinhouse completed the agreed-upon assessment. Ms. Rettinhouse has many years of experience conducting assessments. She reviewed pertinent information and considered the concerns claimant's mother expressed. Ms. Rettinhouse determined that two-to-one support in all community settings is not clinically recommended. She also recommended that "existing services and supports be faded systematically" in order to increase claimant's opportunities for independence. Ms. Rettinhouse's opinions are consistent with Lanterman Act's goal to provide services to consumers to foster independence.

25. When all of the evidence is considered, claimant's mother did not establish that the Lanterman Act requires ACRC to fund an independent third-party evaluation of claimant to determine if she requires two-to-one support when in community settings. Therefore, her appeal must be denied.

## LEGAL CONCLUSIONS

1. The Lanterman Act governs this case. (Welf. & Inst. Code, section 4500 et seq.) Under the Lanterman Act, regional centers fund services and supports for persons with developmental disabilities.

2. An administrative “fair hearing” to determine the rights and obligations of the parties, if any, is available under the Lanterman Act. (Welf. & Inst. Code sections 4700–4716.) C. The burden of proof is on the party seeking government benefits or services. (*Lindsay v. San Diego County Retirement Bd.* (1964) 231 Cal.App.2d 156, 161.) Claimant has the burden of proving, by a preponderance of the evidence, that ACRC must fund an independent third-party evaluation of claimant to determine if she requires two-to-one support when in community settings. (Evid. Code, § 115.)

3. 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.) To comply with its statutory mandate, the Department 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.) Each regional center is responsible for consumers within a geographic region of the state called a “catchment area.”

4. Welfare and Institutions Code section 4512, subdivision (b), defines “services and supports for persons with developmental disabilities,” in relevant part, as follows:

...specialized 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 an independent, productive, and normal life. 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....

5. Welfare and Institutions Code section 4646 provides in relevant part:

(a) It is the intent of the Legislature to ensure that the individual program plan and provision of services and supports by the regional center system is centered on the individual and the family of the individual with developmental disabilities and takes into account the needs and preferences of the individual and the family, if appropriate, as well as promoting community integration, independent, productive, and normal lives, and stable and

healthy environments. It is the further intent of the Legislature to ensure that the provision of services to consumers and their families be effective in meeting the goals stated in the individual program plan, reflect the preferences and choices of the consumer, and reflect the cost-effective use of public resources.

(b) The individual program plan is developed through a process of individualized needs determination. The individual with developmental disabilities and, if appropriate, the individual's parents, legal guardian or conservator, or authorized representative, shall have the opportunity to actively participate in the development of the plan.

[¶] ... [¶]

6. Welfare and Institutions Code section 4685.8 requires the Department to implement a statewide SDP. The SDP must 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. The SDP is designed to give the participant greater control over which services and supports best meet their IPP needs, goals, and objectives. (Welf. & Inst. Code, § 4685.8, subd. (b)(2)(B).)

7. The SDP requires the "IPP teams, when developing the individual budget, to 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....” (Welf. & Inst. Code, § 4685.8, subd. (b)(2)(H)(i).)

8. Additionally, the “IPP team shall utilize the person-centered planning process to develop the IPP for a participant. The IPP shall detail the goals and objectives of the participant that are to be met through the purchase of participant-selected services and supports. The IPP team shall determine the individual budget to ensure the budget assists the participant to achieve the outcomes set forth in the participant’s IPP and ensures their health and safety. The completed individual budget shall be attached to the IPP.” (Welf. & Inst. Code, § 4685.8, subd. (j).)

9. When all the evidence is considered, claimant failed to demonstrate that ACRC must pay for an independent third-party evaluation of claimant to determine if she requires two-to-one support when in community settings.

## **ORDER**

Claimant’s appeal requesting ACRC be ordered to fund an independent third-party evaluation of claimant to determine if she requires two-to-one support when in community settings is DENIED.

DATE: February 13, 2025

MARCIE LARSON  
Administrative Law Judge  
Office of Administrative Hearings





BEFORE THE  
DEPARTMENT OF DEVELOPMENTAL SERVICES  
STATE OF CALIFORNIA

In the Matter of:

Claimant

OAH Case No. 2024090820

Vs.

**DECISION BY THE DIRECTOR**

Alta California Regional Center,

Respondent.

ORDER OF DECISION

On February 13, 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 (the 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 March 7, 2025.

*Original signed by*

Pete Cervinka, Director