

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

**In the Matter of:**

**CLAIMANT**

**and**

**ALTA CALIFORNIA REGIONAL CENTER, Service Agency**

**DDS No. CS0019826**

**OAH No. 2024100121**

**PROPOSED DECISION**

Wim van Rooyen, Administrative Law Judge, Office of Administrative Hearings, State of California, acting as a hearing officer, conducted a fair hearing on March 27, 2025, in Grass Valley, California.

Robin Black, Legal Services Manager, represented Alta California Regional Center (ACRC).

Kelsey Handcock, Attorney at Law, represented Claimant, who was present with her mother and conservator (Mother).

Evidence was received and the record left open until March 28, 2025, to allow both parties to submit supplemental documents. On March 28, 2025, ACRC filed a

written copy of its opening statement, which was marked as Exhibit 23. That same day, Claimant filed a joint stipulation of the parties excluding certain issues from the fair hearing, which was marked as Exhibit O.

On March 28, 2025, Exhibits 23 and O were admitted, the record was closed, and the matter was submitted for decision.

## **ISSUE**

Did ACRC improperly deny Claimant's request to use Self-Determination Program (SDP) funds to pay for dirt bike riding classes as a social-recreational activity?

## **FACTUAL FINDINGS**

### **Jurisdiction**

1. Claimant is a 33-year-old woman who is eligible for regional center services under the Lanterman Act based upon her diagnosis of moderate intellectual disability. On July 1, 2022, Claimant entered into the SDP. As part of the SDP, the parties developed an Individual Program Plan (IPP), SDP budget, and SDP spending plan for Claimant.

2. Claimant's SDP budget and spending plan included funding for several social-recreational activities. In April 2024, Claimant requested to change her SDP spending plan to substitute a weekly session of dirt bike riding lessons in place of a weekly session of horseback riding. She did not request the addition of any funds to her SDP budget because the dirt bike riding lessons would be covered by existing funds.

3. On July 10, 2024, ACRC issued a Notice of Action (NOA) denying Claimant's request. ACRC explained that regional centers are responsible for ensuring clients' health and safety. Thus, ACRC's internal policy disallowed paying for clients to participate in highly or inherently dangerous sports or recreational activities, including dirt bike riding. Additionally, ACRC noted funding dirt bike riding lessons was not necessary to implement the goals of Claimant's IPP because there were several other social-recreational activities available with a lower risk profile than dirt bike riding.

4. Claimant timely requested an informal meeting, which was held on August 23, 2024. On September 4, 2024, ACRC Legal Services Specialist D.J. Weersing issued an Informal Meeting Decision sustaining ACRC's denial of Claimant's request.

5. Thereafter, Claimant timely requested mediation and a fair hearing to appeal ACRC's decision. The matter did not resolve at a mediation conducted on December 5, 2024. Consequently, the matter was set for a fair hearing.

### **Claimant's Evidence**

6. Claimant, Mother, and Claimant's brother (Brother) all testified at hearing. Claimant loves being in the SDP because she gets to choose what she likes to do. She enjoys being active, social, and as independent as possible. Her recreational activities include swimming, water sports, horseback riding, hiking, skiing, Special Olympics, and going to the gym. Since the spring of 2024, she has also become very interested in dirt bike riding.

7. Claimant has been receiving weekly dirt bike riding lessons from Brother. Brother has been a professional dirt bike rider since the age of 16. For the past 12 years, Brother has owned the Maloney Training Facility (MTF), which provides dirt bike riding lessons to approximately 250 clients. Brother is passionate about dirt bike riding

and giving back to the community, especially those with special needs. Thus, MTF offers a weekly class specifically for five persons with special needs, including Claimant.

8. The special needs class takes place at a track constructed on Mother's property. The track is on a flat area with cones and ribbons. Participants are closely supervised at a one-to-one or two-to-one ratio of participants to instructors. Brother is always present and is a trained emergency medical technician. Participants are required to wear safety gear, including safety boots, padded pants, knee braces, a jersey with a chest protector, shoulder pads, elbow pads, goggles, and a helmet. Additionally, the dirt bikes are smaller and equipped with a throttle stop, which limits participants from exceeding a speed of five miles per hour.

9. Special needs class participants and/or their authorized representatives are required to sign a Release and Waiver of Liability, Assumption of Risk and Indemnity Agreement (Release). The Release requires acknowledgment that dirt bike riding is "very dangerous" and entails a risk of physical injury. Brother explained that the Release is standard in the industry. MTF also carries liability insurance for all its classes.

10. Claimant feels very safe during dirt bike riding classes. She has fallen a few times, but has never been injured. Mother likewise believes it is safe for Claimant to participate in dirt bike riding classes given all the safety precautions. Mother does not think Claimant's dirt bike riding classes are any more high risk than skiing or horseback riding, which also require signing similar releases and waivers of liability. Moreover, persons without disabilities routinely participate in recreational activities involving some risk, including horseback riding, skiing, and dirt bike riding. Just because someone has a disability, they should not be precluded from participating in

their recreational activity of choice. The purpose of the SDP is to give clients more freedom, autonomy, and choice.

11. Claimant especially enjoys dirt bike riding because it helps her with her balance and allows her to socialize with her family and friends, who all enjoy dirt bike riding. Although her lessons take place in a special needs class, she attends many dirt bike riding events involving persons without special needs, which promotes her integration into the community.

12. Mother currently pays for Claimant's dirt bike riding lessons out of pocket. However, she strongly believes that Claimant should be able to use SDP funds for such lessons.

### **ACRC's Evidence**

13. Julia Woodward, Claimant's ACRC Service Coordinator; Heidi Dilley, an ACRC Client Services Manager; and Kenisha Hurd, ACRC's Associate Director of Client Services, testified at hearing. Ms. Woodward and Ms. Dilley both testified that Claimant's request to add dirt bike riding lessons to her SDP spending plan was denied due to safety concerns involving a high-risk activity.

14. Ms. Hurd testified that she was unaware of any statute or regulation that specifically prohibits funding high-risk, social-recreational activities. Additionally, ACRC's Service Policy Manual, which the Department of Developmental Services (DDS) approved on March 7, 2024, did not contain a specific provision prohibiting the use of SDP funds for high-risk, social-recreational activities. However, ACRC's Procedures Manual provides:

The following activities are high-risk and will not be funded by ACRC. Activities include, but are not limited to: motorcross/motorcycle/dirt bike riding, all-terrain vehicles, sky diving, para-sailing/gliding, etc.

The ACRC Executive Director or designee may grant exceptions to the Procedures Manual “as warranted under extraordinary circumstances.”

15. Ms. Hurd explained that the Procedures Manual is an internal ACRC document that serves as guidance to service coordinators. It is more detailed and prescriptive than the Service Policy Manual, is not approved by DDS, and is not available to the general public. The prohibition against funding high-risk activities was only recently added to the Procedures Manual. The prohibition was added based on internet research ACRC conducted concerning high-risk social-recreational activities, including dirt bike riding. That research revealed several articles outlining the dangers of dirt bike riding in general. ACRC believes that adding the prohibition to the Procedures Manual was necessary to fulfill its obligation to ensure the health and safety of claimants.

## **LEGAL CONCLUSIONS**

1. The Lanterman Act governs this case. (Welf. & Inst. Code, § 4500 et seq.) An administrative “fair hearing” to determine the rights and obligations of the parties, if any, is available under the Lanterman Act. (Welf. & Inst. Code §§ 4700–4716.)

2. The Lanterman Act sets forth the regional center’s responsibility for providing services and supports for eligible persons with developmental disabilities to enable them to “approximate the pattern of everyday living available to people

without disabilities of the same age.” (Welf. & Inst. Code, § 4501.) An “array of services and supports should be established . . . to meet the needs and choices of each person with developmental disabilities . . . to support their integration into the mainstream life of the community . . . [and to] prevent dislocation of persons with developmental disabilities from their home communities.” (*Ibid.*) Additionally, “[i]t is the intent of the Legislature that agencies serving persons with developmental disabilities shall produce evidence that their services have resulted in consumer or family empowerment and in more independent, productive, and normal lives for the persons served.” (*Ibid.*)

3. 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).) The SDP requires a regional center, 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, the effectiveness of each option in meeting the goals specified in the IPP, and the cost effectiveness of each option. (*Id.*, subd. (b)(2)(H)(i).) Additionally, the regional center has an obligation to ensure the consumer’s health and safety. (*Id.*, subd. (j).)

4. Here, Claimant asserts that she should be permitted to use SDP funds to pay for dirt bike riding classes as a social-recreational activity and that ACRC’s denial of her request constitutes a violation of the Lanterman Act. Claimant bears the burden of proving such a violation by a preponderance of the evidence. (See Evid. Code, §§ 500 [“Except as otherwise provided by law, a party has the burden of proof as to each fact the existence or nonexistence of which is essential to the claim for relief or defense that he is asserting”] & 115 [“Except as otherwise provided by law, the burden of proof requires proof by a preponderance of the evidence.”].) A preponderance of

the evidence means "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. The parties all agree there is no specific statute or regulation that prohibits using SDP funds to pay for high-risk social-recreational activities. Nor is there any statutory or regulatory definition of what constitutes a high-risk social-recreational activity. Nevertheless, regional centers have a statutory obligation to ensure consumers' health and safety. (Welf. & Inst. Code, §§ 4502, subd. (b)(8), & 4685.8, subd. (j).) In the absence of rulemaking by DDS, it falls to the regional centers to adopt reasonable policies to fulfill that statutory obligation. Here, ACRC's Procedures Manual contains a prohibition against funding high-risk activities, including dirt bike riding. It also allows the Executive Director or designee to grant exceptions to the Procedures Manual under appropriate circumstances.

6. A general prohibition against funding high-risk activities is reasonable and consistent with ACRC's statutory mandate to protect consumers. However, decisions under such a general prohibition should always be made on a case-by-case basis under the individual facts and circumstances of the activity involved, with thoughtful consideration and discussion as to whether an exception may be appropriate. That is because it is also important to give due regard to the SDP consumer's preferences and freedom in choosing social-recreational activities, provided that safety concerns can be adequately addressed.

7. Although dirt bike riding in general may be a high-risk activity, Claimant has shown by a preponderance of the evidence that the special needs class offered by MTF is not a high-risk activity. As discussed above, the class is offered on a flat area and involves smaller bikes, low speed, protective gear, close supervision, and the



presence of a trained emergency medical technician. That MTF's Release requires an acknowledgment that dirt bike riding is "very dangerous" and entails a risk of physical injury is not dispositive. Such language is fairly common in releases for several types of recreational activities frequently approved for SDP participants. Instead, the focus should be on the particular activity's nature, design, dangers, and safety precautions implemented by the vendor.

8. The MTF special needs dirt bike riding class is also necessary to implement Claimant's IPP. (Welf. & Inst. Code, § 4685.8, subds. (c)(7) & (d)(3).) This social-recreational activity of her choice allows her to socialize with family and friends and to be more integrated into her community.

9. In sum, although ACRC's general prohibition against funding high-risk activities is reasonable, it erred by not granting Claimant an exception as permitted under the Procedures Manual. The weight of the evidence establishes that the special needs dirt bike riding class offered by MTF is not a high-risk activity. Thus, Claimant's appeal should be granted.

## **ORDER**

Claimant's appeal is GRANTED. ACRC shall permit Claimant to amend her SDP spending plan to use SDP funds to pay for weekly dirt bike riding classes at MTF as a social-recreational activity.

DATE: April 4, 2025

WIM VAN ROOYEN  
Administrative Law Judge  
Office of Administrative Hearings

BEFORE THE  
DEPARTMENT OF DEVELOPMENTAL SERVICES  
STATE OF CALIFORNIA

In the Matter of:

Claimant

OAH Case No. 2024100121

Vs.

**DECISION BY THE DIRECTOR**

Alta California Regional Center

Respondent.

ORDER OF DECISION

On April 14, 2025, an Administrative Law Judge (ALJ) at the Office of Administrative Hearings (OAH) issued a Proposed Decision in this matter.

Given the unique circumstances of the case, the Proposed Decision is adopted by the Department of Developmental Services 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 April 29, 2025.

*Original signed by:*

Pete Cervinka, Director