

**BEFORE THE  
OFFICE OF ADMINISTRATIVE HEARINGS  
STATE OF CALIFORNIA**

**In the Matter of the Fair Hearing Request of:**

**CLAIMANT**

**and**

**REGIONAL CENTER OF ORANGE COUNTY,**

**Service Agency.**

**DDS No. CS0021748**

**OAH No. 2024101069**

**DECISION**

Administrative Law Judge Eric Sawyer (ALJ), Office of Administrative Hearings (OAH), conducted the fair hearing in this matter on February 20, April 2, and April 3, 2025, in Santa Ana, California.

Claimant, who was not present, was represented by his parents. (Family titles are used to protect the confidentiality of this proceeding.)

Paula Gray, Fair Hearing Manager, represented the Regional Center of Orange County (service agency).

The hearing was continued to allow service agency to object to various exhibits identified by claimant's mother during the hearing but untimely exchanged, and thereafter for the parties to submit closing argument briefs. The events that transpired while the record was held open are described in the ALJ's orders marked for identification as Exhibits OAH 1, OAH 2, OAH 3, OAH 4, OAH 5, and OAH 6.

The record closed, and the matter was submitted for decision, upon the filing of closing briefs on May 9, 2025.

## **ISSUES**

At the outset of the hearing, the ALJ identified the following issues to be heard and decided in this case. For ease of the record, the issues identified below use the numbers assigned to them in claimant's Notice of Appeal (Ex. A). As explained in more detail below, the ALJ determined some of the stated issues would not be decided herein, which is why the list below omits numbers 1, 2, and 5.

3. Shall service agency fund Participant Directed Transportation at the IRS rate?

4.A. Shall service agency fund for a personal chef for claimant?

4.B. Shall service agency replace the cost of a personal trainer assessment and funding for Stark Personal Training with personal training services provided by Sam Strayer, Jeff Bueno, and Pilates from Silva?

4.C.1. Shall service agency fund for a life coach for claimant?

4.C.2. Shall service agency fund for a social/dating coach for claimant?

4.C.3. Shall service agency fund for a health coach/occupational therapist for claimant?

6. Shall service agency provide rental assistance funding for an apartment where claimant resides while attending graduate school at Pepperdine University in Malibu?

7. Shall service agency fund Parent Coordinated Personal Assistance at a higher rate?

8. Shall service agency reimburse claimant's parents for health insurance premiums and co-pays?

9. Shall service agency fund for claimant to receive vision therapy?

10. Shall service agency reimburse claimant's parents for prior occupational therapy expenses and provide prospective funding for occupational therapy?

11. Shall service agency fund for internet (Wi-Fi), a cellphone, and a fax line for claimant?

### **EVIDENCE RELIED ON**

In making this Decision, the ALJ relied on service agency exhibits 1 through 13, 15 through 33, and 36 through 38; claimant's exhibits A, T, T-1, T-2, T-5, T-6, T-7, CC-1 through CC-5, FF, GG, HH, II, LL, MM, NN, TT, UU, XX, ZZ, EEE, FFF, KKK, and NNN; as well as the testimony of Service Coordinator Brenda Munguia; Medical Director Dr. Peter Himber; Behavioral Services Specialist Christina Genter; Associate Director of Housing Jack Stanton; Chief Financial Officer Marta Vasquez; Area Manager Carmen

Gonzalez; and claimant's mother. At the conclusion of the hearing, claimant's father made a few comments, but did not want to offer sworn testimony.

## **FACTUAL FINDINGS**

### **Parties and Jurisdiction**

#### **PARTIES**

1. Service agency determines eligibility and provides funding for services and supports to persons with developmental disabilities under the Lanterman Developmental Disabilities Services Act (Lanterman Act), among other entitlement programs. (Welf. & Inst. Code, § 4500 et seq.; further undesignated statutory references are to this code.)

2. Claimant is a 33-year-old man eligible for services under the Lanterman Act based on his diagnosis of autism. (Ex. 1.)

#### **JURISDICTION FOR THE ISSUES DECIDED**

3. On September 22, 2023, the parties held an individual program plan (IPP) meeting, which led to creation of the most recent fully executed IPP. (Testimony [Test.] of Munguia; Ex. 1.) Between November 21, 2023, and October 31, 2024, the parties held at least seven IPP addendum meetings to discuss various services and supports, and engaged in frequent e-mail exchanges, resulting in the issuance of 12 IPP Addendums. Most of these meetings and addendums discuss the issues involved in this case. (Test. of Munguia, Gonzalez; Exs. 2-13.)

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4. From February 1, 2024, through August 6, 2024, service agency issued five Notices of Action (NOA's), summarized below, in which service agency denied several service requests made on claimant's behalf. These NOAs involved the funding requests described in the Issues section above. (Test. of Gonzalez; Exs. 16-21.)

5. An NOA dated February 1, 2024, contained service agency's denial of claimant's requests to fund therapy for an eating disorder, nutrition assessment, and weight management services; medical, dental, and psychiatrist consults; psychologist consults; occupational and physical therapy; a vision assessment and therapies; vision care; massage therapy; auditory processing therapy; insurance premium and co-payment reimbursement requests; pronator shoes; a personal trainer; using Uber/Lyft for transportation; and claimant's mother's request to receive payment as a parent mentor provider. (Ex. 17.)

6. An NOA dated February 21, 2024, contained service agency's denial of claimant's requests to increase rates paid for parent directed services; participant directed transportation; and funding for claimant's mother to train caregivers. (Ex. 18.)

7. An NOA dated May 10, 2024, contained service agency's denial of claimant's requests for: overtime pay for personal assistance; a career assessment by the Dr. Davidson Learning Center; and funding for legal fees, advocacy, and housekeeping services. (Ex. 19.)

8. An NOA dated July 19, 2024, contained service agency's denial of claimant's requests for: life, social, dating, and health coaches; Pilates instruction and a personal chef as social/recreational activity; rent assistance to live in Malibu near the graduate school claimant would attend, moving expenses, accommodations, and other extra costs; and reimbursement for housing. (Ex. 20.)

9. An NOA dated August 6, 2024, contained service agency's denial of claimant's requests for: funding for videography lessons; stick shift driving lessons for a Porsche automobile; as well as funding for internet (Wi-Fi) service and a cell phone at claimant's residence. (Ex. 21.)

10. Claimant's mother previously filed appeals concerning many of the issues raised in the above-described NOA's, bearing OAH case numbers 2024020787, 2024030859, 2024070408, and 2024070412. (Ex. 16, p. A453.) Those matters were consolidated for mediation, which occurred in 2024. During the mediation, the parties agreed claimant would file Notices of Resolution, dismissing all of the appeals, and that claimant would refile one appeal (the instant case) covering all of the issues in those (prior) appeals. (Ex. 16, p. A465.)

11. On or about October 18, 2024, claimant's former counsel filed with the Department of Developmental Services (DDS) the aforementioned Notice of Appeal (Appeal). (Exs. A, 16.) The issues described above in the Issues section are contained in the Appeal.

### **OTHER IDENTIFIED ISSUES NOT DECIDED**

12. The Appeal also contains several issues other than those described in the Issues section above. When the hearing commenced, the ALJ reviewed with the parties all of the issues listed in the Appeal, and determined Issues 1, 2, and 5 would not be heard or decided for reasons explained on the record. For example, Issues 1 and 2, requesting Parent Coordinated Personal Assistance, is a service already funded by service agency at the requested number of hours per month. Claimant's mother stated these issues involved her request for a higher rate of pay for this funding, but Issues 1 and 2 as framed in the Appeal do not mention a higher pay rate and, in any event, the

request for a higher pay rate is addressed in Issue 7. When inquiring about Issue 5, regarding applied behavior analysis (ABA) therapy, claimant's mother agreed the issue was no longer in dispute, and that issue was withdrawn. (Exs. A, 16.)

13. The ALJ also decided there was no jurisdiction to hear and decide the several other issues listed in the Appeal after Issue 11, for reasons explained on the record. Primarily, it was not established the services described within these issues were requested during an IPP meeting or the subject of an NOA by the service agency, which are jurisdictional prerequisites. (See Legal Conclusions 2-3.) The Appeal states these other issues were referenced in e-mails exchanged between the parties after the mediation described above. According to the mediation agreement referenced in the Appeal, this case was only to involve the issues included in the prior appeals, not those generated after the mediation. (Ex. 16, p. A465.)

14. In addition, Issues 14 ("Housing Concerns"), 17 ("Personal Training at Pepperdine"), 18 ("Pilates at Cure Spa Malibu Fitness"), 20 ("Cooking Class: Independent Chef"), and 21 ("Approval for Personal Training, Pilates"), are duplicative of many of the issues described in the Issues section above. Issue 15 relates to "ABA services." As discussed above, claimant's mother agreed her ABA service request was no longer in dispute; in any event, Issue 15 simply recites service agency's statement in a prior communication and does not contain a service request. Finally, claimant's mother stated the family did not want the service described in Issue 22 ("Independent Facilitatory Referral for SDP"); later in the hearing, claimant's mother testified claimant is not interested in participating in the Self-Determination Program (SDP).

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## **TIMING OF THE HEARING AND ISSUANCE OF THE DECISION**

15. Official notice is taken of the following: the hearing of this matter initially was scheduled to be heard on December 5, 2024; the hearing date was continued twice at claimant's request; in the first continuance request, claimant's mother waived the statutory deadlines for holding the hearing and issuing the decision.

16. As discussed above, the record was held open after the conclusion of the hearing to resolve service agency's objections to claimant's exhibits untimely exchanged but marked for identification during the hearing, receive closing briefs, and resolve various unsolicited filings by claimant's mother. (See also Exs. OAH 1, OAH 2, OAH 3, OAH 4, OAH 5.)

## **Relevant Background Information**

17. Claimant is conserved. His parents are his limited conservators. (Ex. 1, p. A3.) Claimant also receives care from his adult sister. (Ex. 1.)

18. Claimant lives alone in an apartment in Corona Del Mar. (Ex. 1, p. A3.) His parents live in another part of Orange County. In Fall 2024, claimant moved to a condominium in Malibu rented for him by his parents, to be close to the campus of Pepperdine University (Pepperdine) where he currently attends graduate school. However, claimant has kept his apartment in Corona Del Mar, and occasionally visits there on weekends, holidays, and breaks from school. (Test. of claimant's mother; Exs. 1-13.)

19. As of July 2024, service agency had agreed to provide funding for the following services for claimant: Parent Coordinated Personal Assistance (PCPA) at 42 hours per week of support, in lieu of a Supported Living Services (SLS) program



provided by a third-party vendor; PCPA at 30 hours per week of support, in lieu of an Adult Day Program provided by a third-party vendor; Participant Directed Transportation for seven days per week; purchase reimbursement for the UCLA Peers Clinic; purchase reimbursement for social/recreational activities in the form of cooking classes at Sur La Table and Hip Cooks; a personal trainer assessment of up to \$1,000; Stark Personal Training, up to \$2,200; personal training with Sam Strayer, up to \$300; purchase reimbursement for ABA therapy provided by Connection Square, in the amount of nine hours per week 1:1 time, 10 hours per month parent consult, eight hours per month supervision, and three hours per month report writing. (Ex. 20.)

20. Claimant's mother is the provider of the PCPA in lieu of an SLS program and the PCPA in lieu of an Adult Day program. Service agency has authorized up to a combined 72 hours per week for those services. In 2024, claimant's mother was paid by service agency \$71,891.82 for the PCPA in lieu of an SLS program, and \$37,386.80 for the PCPA in lieu of an Adult Day program. (Testimony of Gonzalez; Exs. 27, 28.)

21. Claimant's mother does not want a third-party vendor to provide either the SLS or Adult Day programs. (Test. of claimant's mother, Stanton.) She testified that is because her son does not want other people in his home, and he does not trust vendors referred by service agency, some of whom he referred to as being "off the streets." (Test. of claimant's mother.) Thus, claimant's mother, father, and sister provide the care in both programs. (Test. of claimant's mother; Gonzalez.) However, service agency now questions this arrangement because claimant's mother has refused to provide clear information on the services provided in both programs, the days and hours of services, etc. (Test. of Gonzalez.) Also, claimant's mother only is with claimant three or four days a week, and service agency staff do not know when claimant's father and sister are with claimant in Malibu. (Test. of Munguia.)

22. The relationship between claimant's mother and service agency is fractured. As demonstrated by certain allegations in the Appeal, and testimony of claimant's mother, the family is upset with, and does not trust, service agency. For example, claimant's mother testified she believes service agency is not meeting its statutory deadlines for establishing and updating claimant's IPP; denies her reimbursement requests without valid reasons; avoids her complaints and service requests by simply stating those matters are "in the fair hearing process;" requires her to "jump through so many hoops, processes, and papers" to get services; does not pay for required services, and delays other payments; and now is "trying to force" claimant into the SDP, which he does not want. (Test. of claimant's mother; Ex. A.)

23. The fractured relationship has manifested itself in two complaints claimant's mother filed with DDS against service agency, one in January 2025 and the other in February 2025. (Test. of claimant's mother; Ex. 36.) Those complaints were brought under section 4731, which allows a consumer, parent, or conservator, to complain to DDS if he or she believes that any right to which the consumer is entitled has been abused, punitively withheld, or improperly or unreasonably denied by a regional center or service provider (4731 complaint).

24. The two 4731 complaints involve 13 different areas, focused mainly on allegations that service agency has failed to properly conduct the IPP process, address claimant's needs, make proper referrals for services, assist claimant's mother with claimant's temper and violent behaviors, and fund many of the services involved in the instant case. Service agency responded to the 4731 complaints, concluding that none was substantiated. (Ex. 36.) Claimant's mother appealed that decision to DDS, and the matter was still pending as of the hearing in the instant case. (Test. of Gonzalez.)

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25. During the hearing, the ALJ rejected claimant's mother's attempts to litigate the issues addressed in her 4731 complaints, aside from the service requests identified in the Issues section above, because jurisdiction for such complaints under section 4731 rests solely with DDS and not in a Lanterman Act appeal. (See § 4731.) For that reason, claimant's mother's discussion of these complaints in her closing brief also are disregarded. (See, e.g., Ex. SSS, pp. B1270-1277.)

26. The fractured relationship also is manifested by the disputed issues involved in this case, as service agency staff do not have a good working relationship with claimant's mother. Some of the service agency staff members who testified in this case mentioned various problems dealing with claimant's mother that they believe have interfered with their case management and service request analysis. Those problems include, but are not limited to: a lack of understanding how claimant's mother (the sole transportation vendor) can bill for seven days per week of transporting claimant when she only sees him three or four days a week; claimant's mother's refusal to sign consent forms, depriving service agency of required information from vendors; an inability to communicate with claimant's current ABA provider about problems or concerns noted by claimant's mother because she will not sign a consent form; claimant not attending IPP meetings; claimant's mother's refusal to provide a schedule of either PCPA program; claimant's mother's refusal to provide claimant's current address in Malibu; and, staff's inability to complete the IPP process because claimant's mother puts up barriers, and makes initial requests that she later changes, replaces, or countermands, while service agency staff still are working up the initial requests. (Test. of Munguia, Gonzalez.)

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### **Issue 3: Participant Directed Transportation at the IRS Rate**

27. Claimant has a California driver license and is able to drive himself. He has in his possession a Tesla automobile, which he can drive solo. (Test. of Gonzalez.) While claimant drives himself to classes at Pepperdine, claimant's mother testified her son only is able to drive short distances, and that his apartment is a half mile away from campus.

28. Claimant's mother is vendored with service agency to provide Participant Directed Transportation services to her son, up to seven days per week. (Ex. 1, p. A17.) She is the only family member vendored to provide transportation to her son; for reasons that are not clear, she has neglected to provide required information (California driver license and insurance information) to have claimant's father and sister approved to provide transportation. Under this arrangement, either claimant's mother can transport her son and seek reimbursement, or she can hire someone else to do it. (Test. of Vasquez.) Claimant's mother testified claimant's father and sister also drive claimant.

29. Marta Vasquez, service agency's chief financial officer, testified that, pursuant to the Lanterman Act, rate-setting for this type of transportation is set by DDS, not service agency.

30. In a letter sent in August 2024, claimant's mother was advised that DDS's rate for Participant Directed Transportation was increased to a maximum rate of two trips per day, \$8 per trip, for a total of \$16 per day. (Test. of Vasquez; Exs. 22, 28.)

31. In the Appeal, claimant states, "The current rate is \$10.97 per day, which at today's prices is approximately 2.5 gallons. The IRS rate is \$.67 per mile. [Claimant's mother] requests the IRS rate because it is impossible to drive to and from [claimant's]

apartment for that amount. The amounts prescribed by the Department of Developmental Services ("DDS") should be superseded by need and augmented by RCOC, Welfare & Institutions Code sections 4691 and 4691.5 notwithstanding." (Ex. A, p. 594.)

32. Claimant's mother testified she has requested to be reimbursed for her transportation at the federal government rate set by the IRS, which is \$.70 per mile. She contends the current rate of \$16 per day is not sufficient, due to the high price of gas and how many miles she must drive to transport her son to his services. Also, because claimant now lives in Malibu, and she and her family live in Orange County, "the number of miles driven per day and week is excessive." (Test. of claimant's mother.)

33. Service agency has denied this request because the rate set by DDS is the maximum amount, and service agency is not authorized by DDS to reimburse mileage at a higher rate. (Test. of Vasquez, Gonzalez.)

34. Service agency also does not believe it has sufficient information from claimant's family to fully understand what transportation is being provided to claimant under this arrangement. For example, claimant's mother refuses to provide information about the locations where she is transporting claimant to and from, or his address in Malibu where he currently resides. Moreover, while claimant's mother has been seeking reimbursement for driving claimant seven days per week, claimant's mother testified she typically is only with him three or four days per week. (Test. of Gonzalez; Ex. 28.)

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## **Issue 4.A: Personal Chef**

35. At the request of claimant's mother, service agency provided funding for social/recreational activities for claimant in the form of cooking classes at Sur la Table (\$396.00 per month) and at Hip Cooks (\$117.00 per week). (Ex. 27, page A555.) The Sur la Table contract ended in September 2024 when claimant moved to Malibu for graduate school, but has neither been renewed nor cancelled. Service agency believes these two cooking classes are appropriate social/recreational activities aimed at meeting claimant's stated IPP goals. For example, it was reported during IPP meetings that claimant expressed interest in learning to cook and would benefit from the social opportunities and interactions available through cooking classes. (Test. of Gonzalez.)

36. Claimant's mother requests the funding for the two above-described cooking classes be replaced by a personal chef to cook for claimant at home. Claimant is overweight, pre-diabetic, has food restrictions, and high blood pressure. Claimant's mother believes a chef will help claimant eat less and healthier, while also teaching claimant how to prepare his own healthy meals. The personal chef also would assist claimant shop for groceries. Moreover, claimant does not derive social interaction at the cooking classes, as he is unable to bring a friend without having to pay for that other person to attend class. (Test. of claimant's mother.)

37. Claimant's mother estimates the cost of a personal chef is \$350 to \$400 for three hours per session. She requests the personal chef meet with claimant twice per week. (Test. of claimant's mother.)

38. Claimant's service coordinator, Ms. Munguia, does not believe a personal chef constitutes a social/recreational activity, because claimant would not be interacting with others in the community while being fed at home by the chef. She

does not know of any other service agency consumer who has a personal chef, nor is she aware of any DDS approved code she could use to fund such a service. (Test. of Munguia.)

39. Mr. Stanton, service agency's associate director of housing, believes that assisting a consumer prepare meals in his home is the appropriate role of an SLS provider. In claimant's case, his mother or someone she hires to assist claimant at home, would be the appropriate person to do that, since claimant's mother is running a program that mimics SLS. (Test. of Stanton.)

40. Ms. Munguia's supervisor, Ms. Gonzalez, agrees that hiring a personal chef to teach claimant to cook and shop for food is not a social/recreational activity, as claimant would not have an opportunity for social interaction when at home cooking with the chef. Therefore, replacing the two cooking classes in public with a personal chef in private is not appropriate. (Test. of Gonzalez.)

#### **Issue 4.B: Personal Training and Pilates Funding**

41. Service agency previously agreed to provide the following physical fitness funding for claimant: (a) personal trainer assessment at the cost of \$1,000; (b) Stark Personal Training (Newport Beach) at the cost of \$2,200; and (c) personal training with Sam Strayer, \$300 for one week. (Test. of Munguia, Gonzalez; Ex. 20, p. A528.)

42. Claimant's mother testified initial contacts with Stark Personal Training did not go well, so she decided not to utilize that funding. She told service agency there was no service used, no charge incurred, and she wanted the funding cancelled. She next testified claimant had a few sessions with Sam Strayer, but that Mr. Strayer "disappeared," and the services stopped.

43. Claimant's mother requests funding for claimant to train with personal trainer Jeff Buenos when claimant is living in his apartment in Corona Del Mar, and for a gym membership at Malibu Fitness when claimant is living in Malibu. Claimant's mother requests funding for private Pilates classes twice per week, at a cost of \$140 per session. Private classes are needed because claimant prefers the Pilates Reformer method, which requires additional instruction and equipment. (Test. of claimant's mother.)

44. Ms. Gonzalez testified service agency's denials of some of these service requests were due to confusion over whether claimant was living in Orange County, Malibu, or both, and that claimant's mother was requesting new services while funding had already been approved for the same type of services from other providers. (Test. of Gonzalez.)

45. As of March 1, 2025, after receiving additional information from claimant's mother, service agency approved the following funding related to physical fitness: (a) three personal training sessions per week at \$120 per session with either Jeff Buenos in Orange County or a personal trainer contracted with Malibu Fitness in Malibu; (b) a gym membership for Malibu Fitness at \$154 per month; and (c) a bulk purchase at a discounted price of 12 sessions for a total of \$1,550, providing two sessions per week with Elektrik Body Pilates, accessible to claimant in both Orange County and Malibu. (Test. of C. Gonzalez.)

#### **Issue 4.C.1: Life Coach**

46. When claimant's mother requested this funding, service agency asked for more specific information concerning how a life coach would help claimant achieve his identified IPP goals. (Test. of Genter, Gonzalez.) There is nothing in the record



indicating claimant's mother provided that information; the lack of information concerning how this service will assist claimant or help him meet his IPP goals was one of the reasons stated in service agency's NOA for denying this funding request. (Ex. 20.)

47. In the Appeal, claimant simply requests a life coach "to help him with determining his path forward." (Ex. A, p. B595.) In her testimony, claimant's mother did not elaborate.

48. Claimant's mother has identified a prospective provider of life coaching for her son, Spectrum Psych LA, which is located in Santa Monica. She believes they will charge approximately \$600 for an assessment, and thereafter \$300 per hour for their services, plus mileage for commuting to Malibu. She would like a life coach to visit claimant once per week. However, no documentation from Spectrum Psych LA was provided, nor evidence indicating they are trained and able to provide the life coaching contemplated. Spectrum Psych LA is not vendored with service agency. Claimant's mother advises they do not accept insurance as payment. (Test. of claimant's mother; Ex. A.)

49. Service agency has authorized funding for ABA services to support claimant with developing his social, functional communication, and independent living skills. (Test. of Genter; Ex. 27, page A554.) To the extent claimant is seeking assistance in setting goals for his future, the ABA services already in place can meet this need. (Test. of Genter.)

#### **Issue 4.C.2: Social/Dating Coach**

50. During IPP meetings spanning May through October 2024, claimant's mother advised the IPP team that claimant was interested in having a girlfriend, and

was using a “dating app” to meet prospective dates at local coffee houses. (Exs. 7, 8, 12, 13.)

51. At a July 2024 IPP meeting, claimant’s mother requested funding for a social and/or dating coach for claimant. (Ex. 20.) In response, service agency requested, but was not provided with, information regarding how this service will benefit claimant in achieving desired outcomes identified in his IPP. (Test. of Gonzalez.) The lack of information concerning how this service will assist claimant or help him meet his IPP goals was a reason stated in service agency’s NOA for denying this funding request. (Ex. 20.)

52. The Appeal requests this service to help claimant with social interaction, reduce his aggressive behavior, and provide general assistance with social skills. Claimant alleged these skills were not covered in his ABA therapy, and that ABA therapists are not certified in the area of social coaching and dating. (Ex. A, p. B595-596.) Claimant requests funding for one or two sessions per week. (*Id.*, p. A596.)

53. The Appeal also seeks reimbursement of \$240 for two sessions with Dr. Saeed Momtazi. (Ex. A, p. A596.) However, the invoice from Dr. Momtazi in evidence is for \$520, for services rendered in September and October 2024. (Ex. NNN.) While the invoice does not describe the service rendered, it does indicate Dr. Momtazi is a “social skills and life coach.” The invoice also indicates Dr. Momtazi is located in British Columbia, Canada. (Ex. NNN.)

54. At hearing, claimant’s mother offered a different reason for this service request than as stated in the Appeal. She testified that claimant wants but does not have a girlfriend, and that he “needs help with girls.” Although claimant’s mother believes Spectrum Psych LA can help claimant with his social skills, she does not think

they are qualified to help him with dating. Thus, claimant's mother utilized Dr. Momtazi for the dating help last year. However, claimant's mother testified she has a "local woman" in mind to be claimant's dating coach. Claimant's mother could not remember the local woman's name, or how much she charges for her services. (Test. of claimant's mother.)

55. Ms. Genter, service agency's behavior services specialist, believes ABA therapy, which is already being funded for claimant, can meet claimant's needs in the areas of social skills, communication, boundaries, and self-advocacy. (Test. of Genter.)

56. Service agency also put in place funding for the PEERS Dating Program (Ex. 29) and the PEERS Social Skills Group for young adults under the age of 35 (Ex. 30). These are evidence-based programs offered through UCLA, and include social skills and dating strategies, which could support claimant in making and keeping friends and/or dating. (Test. of Genter.) Claimant declined to use this funding because he did not think it would help him. (*Ibid.* )

### **Issue 4.C.3: Health Coach**

57. In the Appeal, claimant requests funding for a coach with a health or medical background to assist him with activities of daily living, such as washing, showering, and toileting. Claimant suggests that he can find a "Health Coach/OT" that can perform these services at the rate of \$300 per hour, but does not specify how many hours per week are being requested. The Appeal offers claimant's mother, a registered nurse, to provide these services, but only if she is compensated beyond the 72 hours per week of PCPA service agency already is funding. (Ex. A, p. B596.)

58. At hearing, claimant's mother testified her son needs someone to help him coordinate his various healthcare treatments. For example, claimant needs

reminders about attending his various medical appointments. Claimant's mother offered her compensated service in this area. Although she admitted Spectrum Psych LA could provide this service, it does not have a nurse, which claimant's mother believes is critical to the provision of this service. She does not believe claimant's primary care physician can provide this service. Claimant's mother testified she is already providing this service, and should be paid for providing it, because it is beyond her hours of service to claimant under the two PCPA programs. She would charge \$300 per hour because she received a quote from Spectrum Psych LA that it would charge \$320 per hour for an occupational therapist (OT) to do this service and, as a registered nurse, she believes her time is worth \$300 per hour.

59. Dr. Himber, service agency's medical director, has never heard of a health coach being funded by service agency. (Test. of Dr. Himber.)

60. Ms. Genter believes, to the extent claimant is suggesting that he is in need of training to accomplish these tasks independently, the ABA services already in place can provide this support. (Test. of Genter.)

61. Ms. Gonzalez, a service agency area manager, believes the 42 hours per week of PCPA in lieu of SLS that service agency is paying claimant's mother for is sufficient to cover this need. (Exs. 1, 27.) Claimant is high functioning and can understand his medical issues. He can be assisted by his ABA staff, parents, primary care doctor, and counselors. In addition, claimant's mother has declined to provide any details as to the support she is providing during her other funded hours, so Ms. Gonzalez is not convinced that providing additional compensation for assistance claimant's mother already is providing would be cost effective. (Test. of Gonzalez.)

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62. The concern of Ms. Gonzalez is manifested in the testimony of claimant's mother, where she admitted that although she runs both PCPA programs, she can only be with claimant three or four days per week.

### **Issue 6: Rental Assistance for Residence in Malibu**

63. In August 2024, claimant moved to a condominium close to the Pepperdine campus in Malibu, where now he is attending graduate school. Claimant's mother leases the condominium in her name, and stays there with claimant three or four days per week while providing his PCPA program care. Claimant's mother testified the rent is \$4,400 per month. (Test. of claimant's mother.)

64. Claimant requests service agency to pay for his rent while residing in Malibu. (Test. of claimant's mother.) In the Appeal, claimant also requests reimbursement for past rent payments, advising claimant "will provide a copy of the lease." (Ex. A, p. B597.) The Appeal also requests reimbursement for accrued expenses while searching in Malibu for housing options. (*Ibid.*)

65. One reason service agency has denied this request is because claimant's mother refuses to provide the condominium address, a copy of the lease, or any information about claimant's Malibu residence, despite repeated requests from service agency staff. (Test. of Stanton, Gonzalez.) Without this information, service agency has no way to confirm the propriety of the request. (Test. of Gonzalez.) When questioned on cross-examination, claimant's mother still refused to provide the address.

66. Another reason for the denial relates to claimant's insisting on keeping two residences while he attends graduate school. As discussed above, claimant maintains his apartment in Corona Del Mar. When claimant initially moved into his Corona Del Mar apartment in 2021, service agency funded part of the rent through its

Rent Assistance Pilot Program (rent pilot program). (Ex. 4.) However, that funding stopped when claimant began using a Department of Housing and Urban Development (HUD) voucher through the Orange County Housing Authority (OCHA) to help pay his rent. The HUD voucher bridged the gap between claimant's Social Security Administration (SSA) financial benefit of \$1,471 per month (Ex. 1, p. A17) and his rent. However, service agency will not use funds from the rent pilot program to subsidize a second home for a consumer. Service agency staff have suggested to claimant's family that they try to transfer the HUD voucher to use for the Malibu residence. (Test. of Stanton, Gonzalez.)

67. Claimant's mother testified her son needs to live near campus because he is unable to drive far in his Tesla. She testified her son cannot live in less expensive areas in the San Fernando Valley because the roads from the Valley to Malibu are too curvy and claimant will get car sick. Although Santa Monica is closer, claimant's mother fears her son cannot drive safely on the Pacific Coast Highway due to the high speed of traffic on that route. (Test. of claimant's mother.)

68. Because service agency initially subsidized the rent at his Corona Del Mar apartment through the rent pilot program, claimant's mother believes it must do the same for the Malibu condominium. Claimant's mother testified her son still visits the Corona Del Mar apartment when he needs to attend meetings or appointments in Orange County, and on weekends or school breaks. Claimant's mother contacted OCHA about using the HUD voucher for the Malibu residence, but was advised the voucher only can be used for one residence at a time. Since claimant is not listed on the lease for the Malibu condominium, the HUD voucher has to be used for the Corona Del Mar apartment. (Test. of claimant's mother.)

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69. As far as a request for reimbursement of past rent payments, claimant failed to present a copy of the lease, or any evidence of past payments on the lease, nor the address where the condominium is located. Claimant's mother did not describe in her testimony any expenses incurred in looking for claimant's Malibu residence, nor did she present any documentation regarding such expenses.

## **Issue 7: Funding PCPA at a Higher Rate**

70. When claimant's mother first became vendored with service agency to provide the PCPA programs, the billing code she used was 062. Her initial billing rate was \$15.15 per hour, which was later increased to \$17.13, and then \$19.11. (Test. of claimant's mother.)

71. DDS sets all rates and billing codes for services funded under the Lanterman Act. In or around April 2022, DDS changed the service rates and billing codes for services provided in PCPA programs under a new rate model. Agencies providing such services could continue using billing code 062, but parents providing PCPA were to use billing code 093. Service agency advised claimant's mother of this change by a letter sent in May 2022. (Test. of Vasquez; Ex. 23.)

72. An agency now can bill under code 062 at \$40.00 per hour. To qualify, the agency must go through a rigorous vendor application process, which requires a formal program design, business license, liability insurance with various coverages, and a sexual harassment policy. (Test. of Vasquez.)

73. On the other hand, a parent billing under code 093 receives less per hour than an agency. Claimant's mother testified the current rate is \$19.11 per hour, but Ms. Vasquez testified the rate now is more like \$24 per hour. However, to bill under code 093, a parent only needs to submit a one-page summary of the services to be

provided and proof of homeowner's insurance. Ms. Vasquez testified that the agency hourly rate is higher because agencies have greater overhead than parents, such as an office, employees and personnel requirements, comprehensive insurance coverage, etc. (Test. of Vasquez.)

74. According to the Appeal, claimant's mother has been seriously injured by her son while caring for him, because he is a large adult man who can become aggressive with her. She seeks an increase in the hourly rate provided under the PCPA programs for two reasons. First, claimant's mother has spent considerable money advertising for people to hire to provide care for claimant. Second, claimant's mother has been unable to hire anyone to provide care for claimant at the rate of \$19.11 per hour. (Ex. A.)

75. Claimant's mother testified she frequently is injured by her son when caring for him. At hearing, she referred to a recent arm injury suffered from him, as well as a serious leg injury in the past. Claimant's mother would like to bill under code 062 again, as she had done before her billing code was changed to 093. She believes receiving a higher hourly rate will allow her to hire qualified and competent workers. She testified she did not receive the service agency's May 2022 letter (Ex. 23), and was not advised of the billing protocol change when it happened. For these reasons, she believes she should be able to again bill under code 062.

76. Ms. Vasquez testified that claimant's mother could again bill under code 062 at the higher agency rate, but she first would have to submit the application and required documents to qualify as an agency. (Test. of Vasquez.)

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77. The only other way for claimant's mother to bill at a higher hourly rate in the PCPA programs is to submit a Health and Safety Waiver (H&S Waiver) to DDS. DDS has the final approval on such a request. (Test. of Stanton.)

78. One seeking an H&S Waiver must explain why a higher hourly rate is needed, and supply detailed information on DDS forms. The required explanation includes the immediate risk to claimant's health and safety being addressed by the request for a higher rate; the exact amount of staff wage reimbursement requested; details why the specific wage is necessary to protect claimant's immediate health and safety; details why the current wage is unable to meet those needs; the training, experience, and skills the staff should possess and how this would be justified by the staff wage being requested; the specific hourly wage being requested; current worker's compensation percentage rate; current California State Unemployment Insurance percentage rate; and a breakdown of any benefits being paid under the current hourly wage paid to staff, such as sick time, vacation time, etc. (Test. of Stanton; Ex. 33.)

79. Claimant's mother has been advised of the H&S Waiver process several times by Mr. Stanton. In September 2024, Mr. Stanton sent claimant's mother the DDS forms in question, and offered to fill out the forms for her if she provided him with the requested information. Claimant's mother has never provided Mr. Stanton with the required information. (Test. of Stanton; Ex. 23.)

## **Issue 8: Health Insurance Premiums and Co-Pays**

80. According to the Appeal, "[Claimant's mother] requests reimbursement for Health insurance premiums and Co-pays. While [claimant] has Medi-Cal/Cal-Optima, he also has therapies and health concerns that are not covered by Cal-Optima, per se. Also, there are no available specialists that work with adults with

Autism and/or are assigned with any health insurance. [Claimant's mother] requests reimbursement of health insurance premiums and co-pays. [Claimant's mother] will provide copies of receipts of co-pays and medical bills and the denial letters." (Ex. A, p. B598.)

81. Service agency policy does not permit it to provide funding for a consumer's health insurance. If an adult consumer cannot afford his own health insurance, service agency will direct that consumer to Medi-Cal for CalOptima coverage. Under appropriate circumstances, service agency will provide funding for a consumer's co-payments, deductibles, or co-insurance, either within CalOptima, or a private insurance policy the adult consumer has obtained. (Test. of Gonzalez; Ex. 15.)

82. Claimant has health insurance under CalOptima. His parents also obtained dependent health insurance coverage for claimant under claimant's father's private health plan with Aetna. (Test. of Gonzalez; Exs. T-1, MM.)

83. On or about August 16, 2023, claimant's mother requested service agency to provide funding for insurance premiums, medications, and co-payments for medical appointments and therapy services, if not covered by claimant's CalOptima and Aetna insurance. The parties agreed claimant's mother would provide service agency with copies of invoices and insurance denial letters so service agency staff could review for funding considerations. (Ex. 17.)

84. In October, November, and December 2023, claimant's mother emailed to service agency staff invoices/claim summaries from Aetna for co-payments and co-insurance charges for healthcare services rendered to claimant by several providers. Claimant's mother advised that CalOptima would not cover the charges because the providers were outside of its network. (Ex. 17.)

85. Claimant's mother testified she is requesting reimbursement for the various insurance premiums, co-pays, deductibles, co-insurance, and payments her family has incurred for claimant's healthcare. She is requesting reimbursement because service agency is the "payer of last resort." Since CalOptima will not pay for these charges, and Aetna has not paid the full amount, claimant's mother believes service agency should pay the remainder. (Test. of claimant's mother.)

86. Claimant's mother testified she often has to seek providers outside of CalOptima's network because claimant needs specialized services and providers who are more competent and qualified to treat claimant than are available through CalOptima. Claimant's mother also commented that many healthcare providers do not accept CalOptima, or they do not specialize in treating adults with autism. Claimant's mother has spoken to CalOptima's specialists and liaisons about this problem, but they have not been helpful. She does not believe service agency staff have been helpful either. Her solution to this problem has been to research and find her own providers who are qualified to treat claimant. She hires them, pays them, and seeks reimbursement from service agency for the amounts not covered by insurance. (Test. of claimant's mother.)

87. Claimant's mother estimates the amount of her reimbursement request is \$4,000 from 2024, and \$3,000 from 2023. She further testified the receipts for those charges were submitted to service agency and denied. (Test. of claimant's mother.)

88. Claimant's mother also testified service agency should fund prospectively claimant's insurance premiums for both his CalOptima policy, as well as the dependent coverage on her private Aetna plan. (Test. of claimant's mother.)

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89. Claimant's mother similarly testified service agency should pay for separate dental and vision expenses for claimant. This is because CalOptima's and Aetna's dental and vision services are limited. Claimant is sensitive to people working in his mouth, and he needs teeth cleaning every two months. Because neither insurance policy pays much of the dental claims submitted, claimant's mother requests service agency to pay any balance. (Test. of claimant's mother.)

90. Claimant's mother testified she had trouble finding all of the bills for which she seeks reimbursement. She submitted claim summaries from Aetna for claimant's visits to Dr. Beth Ballinger (optometry), Dr. Robert Myers (psychiatry), Dr. Gail Fernandez (psychiatry), and Dr. Brian Green (dental). (Exs. T-2, T-5, T-6, CC-1 through CC-5, FF.) These expense documents are not well organized, and hard to decipher. The total of these expenses in the record is roughly \$1,000.

91. A summary of charges prepared by or on behalf of claimant's mother lists total out-of-pocket healthcare expenses of approximately \$1,400 for 2023 and 2024. (Ex. FF.) A Financial Summary document issued by Aetna states claimant's out-of-pocket healthcare expenses in 2023 were \$2,227.67, and in 2024 were \$4,165.00; this document does not break down the charges by providers, dates, or individual amounts. (Ex. T.)

92. All of the expense documents submitted by claimant's mother relate only to claims made on the private Aetna insurance policy, of which Aetna paid some but not all. However, both parties submitted several denial letters from CalOptima for claims claimant's mother made for services rendered by the above-described providers, and others. (Exs. 24, 25, 26, T-7, HH, EEE, KKK.) The denials by CalOptima were because claimant was seen by providers out of CalOptima's network, and upon research, CalOptima determined the providers advised claimant's mother they did not

accept CalOptima and that she would have to pay for the services out-of-pocket. Thus, CalOptima concluded claimant's mother attempted to obtain reimbursement without following its protocols. (Test. of Gonzalez; Exs. 24, 25, 26.)

93. Service agency's medical director, Dr. Peter Himber, disputes the claim of claimant's mother that the generic resource of CalOptima does not have in its network specialists who can work with an autistic adult like claimant. Dr. Himber knows of thousands of adults with autism who are receiving support for their needs through CalOptima. In fact, this is the only case Dr. Himber knows of where an adult with autism is claiming CalOptima has no provider who can meet his needs. (Test. of Dr. Himber.)

94. Ms. Gonzalez called CalOptima's liaison to help claimant's mother find appropriate specialists in its network. Ms. Gonzalez was advised by CalOptima that claimant's mother has been in contact with them. However, claimant's mother complained to Ms. Gonzalez that she does not believe the CalOptima specialists she has spoken to have the appropriate credentials to help her. Ms. Gonzalez testified service agency also can offer insurance benefit specialists, as well as Dr. Himber, to contact CalOptima on claimant's behalf, if requested. (Test. of claimant's mother.)

## **Issue 9: Vision Therapy**

95. The Appeal requests "a visual therapist who can assess visual processing issues with claimant." (Ex. A, p. B599.)

96. At hearing, claimant's mother testified her son needs vision therapy because he has binocular vision convergence insufficiency, which is when both eyes do not track equally together. Reports from RightEye (Ex. XX) and University Eye Center at Ketchum Health (Ex. ZZ) document this diagnosis for claimant. These reports also

indicate claimant is dyslexic. Claimant's mother testified this vision problem negatively affects claimant at work and school.

97. Claimant has undergone convergence therapy with Dr. Beth Ballinger, whose office is in Orange County. (Exs. T, T-1, T-2.) Dr. Ballinger has given claimant exercises to help merge his eyes back on track. However, claimant now does not want to travel to Orange County to see Dr. Ballinger. Claimant's mother is looking for an optometrist in Los Angeles who can continue the convergence therapy with claimant. (Test. of claimant's mother.)

98. Claimant's mother testified that Dr. Ballinger wants claimant to continue with the vision therapy. According to claimant's mother, claimant's father does not think it is necessary.

99. Service agency submitted a newsletter on vision therapy from the Association for Science in Autism Treatment. According to the summary of the article:

Eye exercises may be useful for treating certain vision problems such as strabismus (difficulty coordinating the movements of the two eyes to work together) convergence insufficiency (difficulty turning eyes inward to focus on a nearby object). However, there is no known association between such problems and autism spectrum disorders. . . .

(Ex. 32, p. A572.)

100. During the hearing, service agency withdrew its earlier contention that vision therapy is not fundable because it is not science-based.

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## **Issue 10: OT Reimbursement**

101. During an IPP team meeting in January 2024, claimant's mother requested service agency fund on-going occupational therapy (OT) for claimant, among several other service requests. In its February 1, 2024 NOA, service agency denied that request because it had not determined a medical necessity for the service, and claimant had failed to utilize available generic resources for this funding. (Ex. 17.)

102. The above-described October, November, and December 2023 emails from claimant's mother to service agency staff (Factual Finding 84) also contained invoices/claim summaries from Aetna for co-payments and co-insurance charges for OT services rendered to claimant. These reimbursement requests similarly were denied by service agency in its February 1, 2024 NOA. (Ex. 17.)

103. The Appeal requests, "OT reimbursements as submitted and continued authority for such therapy. [Claimant's mother] has contacted an OT on the westside [of Los Angeles] who can work with [claimant] on his sensory processing, organizational, life skills, and work/internships/school related tasks. The therapy would be customized to his individual needs, promote skill development, enhance sensory processing and motor skills, foster social engagements, and minimize repetitive behaviors. The goal is to enhance independence and improve overall quality and functional life and skills, which is required at different stages of an autistic person's life. This OT would work in conjunction with the ABA therapy." (Ex. A, p. B599.)

104. Claimant's mother testified she is seeking \$300 of OT reimbursement. She testified she found an OT on her own for claimant because CalOptima does not have a specialist who could serve her adult son. The family's Aetna insurance paid

some of the bills, but the family had to pay the remainder. Service agency has not paid these expenses.

105. Claimant's mother submitted claim forms from Aetna which she identified as being related to the OT services. (Exs. GG, II, LL, NN, FFF.) One document shows Aetna paid a claim for service rendered in 2022 by OT Lisa Popper. (Ex. GG.) There is a hand-written notation on the document (presumably that of claimant's mother) indicating Ms. Popper was paid \$100, and the Aetna form indicates claimant's family was reimbursed \$80.00 for that claim. (*Id.*, p. B747.) Another document indicates OT Anahita Daruwalla charged claimant's family \$500 for an OT evaluation conducted in April 2023, and that Aetna paid all of that charge except for \$22.51, which was the family's responsibility. (Ex. LL.)

106. Claimant's mother also submitted invoices for orthopedic footwear purchased for her son. In September 2023, the family purchased functional engineered foot orthotics for claimant costing \$325. Aetna paid this charge except \$65, which was the family's responsibility. (Ex. II.) In 2024, claimant's mother purchased a pair of HOKA athletic shoes for claimant costing \$183.18. (Ex. FFF.) Nothing in the record indicates a claim was made to Aetna for these shoes. Claimant's mother did not testify about the necessity of purchasing this footwear.

107. As for prospective OT funding, claimant's mother testified this service remains necessary to address problems still experienced by claimant, such as his getting dizzy, pale, and nauseated. These problems have resulted in claimant not getting involved in sporting activities like tennis or pickleball. Claimant's mother referred to an assessment report recommending continuing OT (presumably from Ms. Daruwalla), but the report is not in evidence. The ALJ is mindful that most of claimant's proposed exhibits were excluded due to their untimely exchange with service agency;



however, a cursory review of claimant's exhibit list does not indicate OT Daruwalla's report is part of the excluded exhibits, or any other OT report.

108. Claimant's mother testified she is still looking for an OT who can serve claimant. She testified it has been hard for her to find someone competent and willing to work with an adult.

109. Dr. Himber testified that OT is covered by CalOptima, and that service agency expects a consumer to first use that generic resource before seeking service agency funding. The same is true for durable medical equipment, such as orthotics and special shoes.

110. Dr. Himber agrees finding an OT for an adult with autism can be challenging. However, if a consumer is not able to find a competent OT who accepts CalOptima patients, the plan is required to find one out of its network, when feasible. If that does not work, the family can file an appeal with CalOptima. If and when that process is completed without success, service agency can provide funding as the payer of last resort, if the OT is necessary for meeting a consumer's IPP goals. (Test. of Dr. Himber.)

## **Issue 11: Wi-Fi, Cellphone, and Fax Line**

111. In the Appeal, claimant requests funding for wireless internet (Wi-Fi), cell phone, and a fax line. At hearing, claimant's mother testified she also wants the same funding for herself, claimant's father, and claimant's sister. (Test. of claimant's mother; Ex. A.)

112. Claimant's mother testified claimant needs this funding to be able to communicate with his family and others. She believes a fax line is necessary because

most medical providers will only receive submissions by facsimile, not e-mail.

Claimant's mother testified she, her husband, and daughter, also need their own Wi-Fi, cellphone, and fax line funding, because they are claimant's caretakers and should not have to pay these costs themselves when it relates to taking care of claimant.

113. LifeLine is a free telephone communication service available to claimant. At service agency's urging, claimant's mother looked into LifeLine funding for claimant. However, she was advised claimant is not eligible, because he already has his own phone line, and additional phone lines for his family members is not part of the plan. (Test. of claimant's mother.)

114. Mr. Stanton, service agency's assistant director of housing, testified internet, cell phone, and fax line services are all considered household expenses that are not fundable for a consumer receiving SLS. In this case, claimant's family decided to opt-out of SLS for claimant, and instead constructed a specially tailored program where claimant lives in his own apartment and is supported by his family members, with his mother being compensated essentially as the SLS provider. Mr. Stanton believes that because these services are not available for a traditional SLS program, they are not available for claimant's alternate version of one either.

115. Mr. Stanton testified service agency expects these types of household services to be paid by a consumer from his or her SSA monthly payments and, in any event, there is nothing in the Lanterman Act supporting such funding.

116. Mr. Stanton knows of no other family of a consumer who receives service agency funding for their own cellphones. (Test. of Stanton.)

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## **LEGAL CONCLUSIONS**

### **Jurisdiction**

1. An administrative “fair hearing” to determine the rights and obligations of the parties is available under the Lanterman Act for a consumer or his authorized representative to appeal a contrary regional center decision. (§§ 4700-4717.)

2. Pursuant to section 4710.5, subdivision (a), a consumer is entitled to a fair hearing when dissatisfied with a decision or action of a regional center. Section 4710 delineates two types of notifications that a regional center is required to provide a consumer regarding a decision or action from which a request for a fair hearing can result. In subdivision (a) of section 4710, a regional center is required to provide a notification when it proposes to “reduce, terminate, or change services set forth in an [IPP]” or when a consumer is determined to be no longer eligible for services. In subdivision (b) of section 4710, a regional center is required to provide a notification when it makes a decision “to deny the initiation of a service or support requested for inclusion in the [IPP].”

3. It is clear from the above statutes that jurisdiction does not exist to decide a request for services that is made for the first time in a fair hearing request, made for the first time after an appeal is filed, or that has not been previously requested for inclusion in an IPP and the subject of a corresponding notification required by section 4710.

4. Here, as provided in the mediation agreement between the parties resolving the prior appeals, the Appeal filed by claimant’s former counsel is deemed to have timely appealed service agency’s various NOAs denying the service requests

underlying the issues identified in the Issues section above. (Factual Findings 1-11.) However, many other issues described in the Appeal are not decided herein, as they were not part of the IPP process and/or the subject of an NOA. (Factual Finding 13.)

5. Finally, other issues discussed in the Appeal are either duplicative of those referenced in the Issues section and therefore considered in this matter, or are no longer in dispute. (Factual Findings 12, 14.)

## **Burden and Standard of Proof**

6. The standard of proof in this case is the preponderance of the evidence because no law or statute, including the Lanterman Act, requires 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.)

7. When one seeks government benefits or services, the burden of proof is on him. (See, e.g., *Lindsay v. San Diego Retirement Bd.* (1964) 231 Cal.App.2d 156, 161 [disability benefits].) In this case, claimant is seeking funding for services or rates service agency has not previously agreed to provide. Therefore, claimant bears the burden of proving by a preponderance of the evidence that he is entitled to all of the service funding requested in this case.

## **Governing Law**

8. The Lanterman Act acknowledges the state's responsibility to provide services and supports for developmentally disabled individuals and their families. (§ 4501.)

9. The primary goal identified in the Lanterman Act is to enable regional center consumers to approximate the pattern of everyday living enjoyed by non-disabled people of the same age and to lead more independent and productive lives in the community. (§§ 4501, 4750; *Association for Retarded Citizens v. Dept. of Developmental Services* (1985) 38 Cal.3d 384, 388.)

10. Regional centers are responsible for conducting a planning process that results in an IPP. Among other things, the IPP must set forth goals and objectives for the consumer, contain provisions for the acquisition of services based upon the consumer's developmental needs and the effectiveness of the services selected to assist the consumer in achieving the agreed-upon goals, contain a statement of time-limited objectives for improving the consumer's situation, and reflect the consumer's particular desires and preferences. (§§ 4646, subd. (a); 4646.5, subd. (a); 4648, subd. (a)(6).)

11. The Lanterman Act makes distinctions between those services which address a consumer's developmental disability and the services that are common to everyone, disabled or not. For example, section 4512, subdivision (b), defines services and supports that can be funded under the Lanterman Act as "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. . . ."

12. Section 4512, subdivision (b), lists nearly 100 specific examples of fundable services and supports, using the phrase "may include, but are not limited to" before reciting the examples. Although the phrase "including, but not limited to"

indicates enlargement of the list of items specifically noted, the use of this phrase does not mean the Legislature intended a category without limits. (*People v. Giordano* (2007) 42 Cal.4th 644, 660.) Statutes are to be given a reasonable and commonsense interpretation consistent with the apparent legislative purpose and intent "and which, when applied, will result in wise policy rather than mischief or absurdity." (*Dyna-Med, Inc. v. Fair Employment & Housing Com.* (1987) 43 Cal.3d 1379, 1392.) Thus, a request for funding a service not listed in subdivision (b) must have a logical and/or reasonable relationship to a service that is listed.

13. Although regional centers are mandated to provide a wide range of services to facilitate implementation of an IPP, they must do so in a cost-effective manner. (§§ 4640.7, subd. (b); 4646, subd. (a).)

14. Regional centers are specifically directed not to fund duplicate services that are available through another publicly funded agency or other "generic resources." Regional centers are required to "identify and pursue all possible sources of funding." (§ 4659, subd. (a).) Examples of generic resources include Medi-Cal, private insurance, school districts, and federal security income. (§ 4659, subd. (a)(1) & (2).) If no generic resource will fund a service specified in a consumer's IPP, the regional center itself must fund the service in order to meet the goals set forth in the IPP; thus, regional centers are considered the payer of last resort. (§§ 4648, subd. (a)(1); 4659.10.)

15. The above-described cost control measures are in place so as to conserve resources that must be shared by many consumers. Thus, it is the intent of the Legislature that "regional centers shall find innovative and economical methods of achieving the objectives contained in individual program plans of persons with

developmental disabilities" (§ 4651, subd. (a)), in an effort to utilize "the maximum cost-effectiveness possible" (§ 4640.7, subd. (b)).

16. The above provisions of the Lanterman Act allow a regional center discretion in determining which services it should purchase to best accomplish all or any part of a consumer's IPP. (§ 4648.) This entails a review of a consumer's needs, progress and circumstances, as well as consideration of a regional center's service policies, resources, and professional judgment as to how an IPP can best be implemented. (§§ 4646; 4648; 4630, subd. (b); 4651, subd. (a).)

17. The IPP process is to be a collaboration among the regional center, consumer, and the consumer's parents and/or authorized representative. (§§ 4646; 4646.5.) An important goal of the Lanterman Act is to foster improved coordination and cooperation between system participants. (§ 4511, subd. (a).) Thus, a fair reading of these provisions is that consumers and their parents and/or authorized representatives have the reciprocal obligation to assist the regional center in meeting its mandate, especially in sharing information. Put another way, a person who seeks benefits from a regional center should also bear the burden of providing information and cooperation. (See, e.g., Civ. Code, § 3521: "He who takes the benefit must bear the burden.")

18. The Lanterman Act does not specifically authorize retroactive reimbursement for services in the fair hearing context. California Code of Regulations, title 17, section (regulation) 50612 suggests that such funding only is available when either the service has been preauthorized or in limited emergency situations before such authorization can be obtained. (Reg. 50612, subds. (a), (b) & (c).)

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19. Yet, the lack of specific statutory authorization is not necessarily dispositive of the issue. In the fair hearing context, an ALJ is empowered by statute to resolve "all issues concerning the rights of persons with developmental disabilities to receive services under [the Lanterman Act]. . . ." (§ 4706, subd. (a).) That statutory provision may be broad enough to encompass the right to retroactive benefits.

20. If the Lanterman Act is to be applied as the Legislature intended, reimbursement should only be available in particular cases where equity requires it. Otherwise, the general requirement that services be established after IPP meetings, and the above-described regulatory restrictions on funding, would be superfluous. Thus, based on the general principles articulated in *Association for Retarded Citizens v. Department of Developmental Services* (1985) 38 Cal.3d 384, reimbursement should be ordered when the principles of equity apply or when, if not granted, the purposes of the Lanterman Act would be thwarted.

## **Resolution of Issues Presented**

### **ISSUE 3: PARTICIPANT DIRECTED TRANSPORTATION AT THE IRS RATE**

21. Rates for community services, including transportation, are set by DDS, with the process for setting and changing rates detailed in regulations. (§§ 4691; 4691.5; reg. 58510 et seq.) The rate set by DDS for transportation cannot be increased above the current maximum rate of \$16 per day for two round trips. Therefore, claimant's request to seek reimbursement at the IRS rate, which is higher than the current DDS rate for Participant Directed Transportation, was properly denied by service agency. (Factual Findings 27-34.) Although claimant agrees in the Appeal that sections 4691 and 4691.5 control, claimant cites no legal authority allowing service agency to supersede or augment DDS's authority in this area.



22. Claimant's closing brief addresses the propriety of using other DDS service codes for transportation services, but there is nothing in the record supporting this contention. Claimant cites section 4648, subdivision (a)(6), but there is nothing in that statute allowing an increase of transportation rates above those set by DDS. In fact, subdivision (a)(6)(D) specifically discusses providing transportation by "the least costly available provider," which forecloses the likelihood DDS would approve a rate higher than what it has set by regulation.

#### **ISSUE 4.A: PERSONAL CHEF**

23. The list of fundable services and supports contained in section 4512, subdivision (b), does not suggest a personal chef was intended to be funded under the Lanterman Act. While section 4512, subdivision (b), mentions "training" as a fundable service, hiring a personal chef is not reasonably related to the generic concept of training. (Factual Findings 35-40; Legal Conclusion 12.)

24. Nor is funding a personal chef to train claimant how to cook and shop cost effective, especially at the rate of nearly \$3,000 per month. Service agency already is funding claimant's mother to mimic an SLS program, and that program could provide such training at no additional cost. Regardless, it is hard to fathom that a less expensive way of training claimant how to cook and shop is not available. (Legal Conclusion 13.) Providing the requested funding would not be consistent with the cost control measures contained in the Lanterman Act meant to spare resources for the many consumers who share them. (Legal Conclusion 15.)

25. In his closing brief, claimant cites to sections 4688 and 4688.22, which discuss the high priority the Legislature has placed on consumers having an opportunity to be integrated in the community, including social/recreational activities.

While claimant always can change his social/recreational opportunities, eliminating his currently funded opportunities by having a personal chef come to his home to cook for him is not an appropriate replacement, as most of his time would be spent in his home with one other person instead of out in the community with others. Thus, the reason asserted for this change in funding does not meet the goals stated in claimant's IPP, or the mandates in sections 4688 and 4688.22. (Legal Conclusion 10.)

#### **ISSUE 4.B: PERSONAL TRAINING AND PILATES FUNDING**

26. Service agency recently agreed to provide funding for claimant to have access to a personal trainer in both Orange County and Malibu, as well as Pilates Reformer classes in both locations. (Factual Findings 41-45.)

27. To the extent claimant maintains his request for private Pilates classes at Silva Pilates, there is a lack of evidence demonstrating such service is necessary. For example, there is no information indicating Silva Pilates is different, or better, than the facility service agency has agreed to fund, Elektrik Body Pilates. It is unclear if Silva Pilates has locations in both of claimant's residence areas. Much of claimant's other discussion in his closing brief is based on information not presented in testimony or exhibits, such as how Pilates remediates his balance, motor regulation, etc. Thus, it was not established by a preponderance of the evidence that this element of claimant's service request will meet his goals stated in his IPP better, or more cost effectively, than the services currently funded by service agency. There is no reason to disturb service agency's discretion in this regard. (Legal Conclusions 10, 16.)

28. Finally, in his closing brief, claimant requests reimbursement for past payments made to Silva Pilates. However, no evidence was presented indicating such a request was brought up during an IPP meeting, the subject of an NOA, or listed in the

Appeal as an issue in this case. Therefore, there is no jurisdiction to entertain this request. (Legal Conclusions 2-3.)

#### **ISSUE 4.C.1: LIFE COACH**

29. Claimant failed to prove by a preponderance of the evidence that he requires a life coach. So far, claimant has not proven how a life coach will help him meet his IPP goals. Moreover, there is no information from the prospective provider, Spectrum Psych LA, indicating that they believe this service is necessary, or that they are competent and capable of providing the requested service. (Factual Findings 46-49; Legal Conclusion 10.)

30. In addition, funding for a life coach would duplicate services that could be rendered by claimant's currently vendored ABA provider. Providing additional funding for such a service would not be cost effective, especially given the above-described concerns of its speculative use and necessity. (Legal Conclusion 13.)

#### **ISSUE 4.C.2: SOCIAL/DATING COACH**

31. Claimant has not established by a preponderance of the evidence that funding for a separate social and/or dating coach is warranted. The reason for claimant's request is unclear, as the Appeal focuses on helping him with negative behaviors and aggression, while claimant's mother focuses on using the service for dating help and to find a girlfriend. Claimant has not proven how a social/dating coach will help him meet his IPP goals. Moreover, there is no information from the prospective provider, who was not identified, indicating she believes her service will be helpful, or that she is competent and capable of providing the requested service. (Factual Findings 50-56; Legal Conclusion 10.)

32. Moreover, service agency currently is funding ABA for claimant, which will help him with his behaviors and social skills. Claimant has not proven the current ABA service provider cannot assist him in this regard. Service agency also offered an evidence-based social skills and dating program at UCLA, which claimant has rejected for reasons not clear from the record. Both of the service providers funded by service agency are known entities proven to be able to provide the requested services. It would not be cost effective to provide funding to a speculative new provider when valid options already have been identified and offered by service agency. Thus, claimant failed to establish cause to disrupt service agency's discretion in this regard. (Legal Conclusions 13, 16.)

33. The reimbursement request also is denied. As discussed above, the Lanterman Act does not provide for retroactive reimbursement of expenses incurred by a consumer or his family outside of the IPP process, and generally such funding is limited to rare circumstances. (Legal Conclusions 18-19.) No evidence suggests service agency consented during the IPP process to the services provided by Dr. Momtazi or that service agency was even aware of his involvement with claimant until after the service was rendered. More importantly, section 4519, subdivision (a), prohibits funding of any service provided outside of California without the pre-approval of DDS. The invoice from Dr. Momtazi reveals he is located in Canada. The sessions he had with claimant undoubtedly were by telehealth. However, there is no evidence that DDS had consented to claimant receiving telehealth services rendered by a service provider located outside of California. Thus, as a matter of law, reimbursement for this request cannot be authorized. (Factual Findings 50-56; Legal Conclusion 20.)

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### **ISSUE 4.C.3: HEALTH COACH**

34. Claimant failed to establish by a preponderance of the evidence that funding for a health coach is warranted. Claimant already has access to services that can assist him with reminders for his medical appointments, i.e., ABA, his mother providing PCPA in lieu of SLS, as well as his primary care doctor. Claimant failed to prove that missing medical appointments has created health problems such that this additional funding is necessary. Thus, it was not established that paying claimant's mother more money for something she already should be doing as part of the 42 hours per week of PCPA in lieu of SLS is a cost-effective approach, especially where other service providers are able to provide this service. (Factual Findings 57-62; Legal Conclusions 10, 13.)

### **ISSUE 6: RENTAL ASSISTANCE FOR RESIDENCE IN MALIBU**

35. There are several legal prohibitions to providing the rental assistance claimant seeks.

36. For example, section 4689, subdivision (h), is clear that, absent circumstances which are not present in this case, "[r]ent, mortgage, and lease payments of a supported living home and household expenses shall be the responsibility of the consumer and any roommate who resides with the consumer." In this case, claimant's mother is paid to operate the PCPA in lieu of an SLS program for claimant while claimant lives in the Malibu condominium. Since lease payments are not fundable in an SLS program operated by a third-party vendor, they similarly are not available for a program designed to mimic an SLS program. (Factual Findings 63-69.)

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37. Thus, pursuant to section 4689, subdivision (h), claimant's mother is responsible for a portion of the rent, since she lives in the Malibu condominium three to four days per week while providing the PCPA in lieu of an SLS program.

38. Next, service agency cannot pay rent for a home which is not leased in claimant's name, to which he has no legal right, and in which his mother resides part-time. (Reg. 58601, subd. (a)(3).)

39. There also is a conceptual impediment to funding this request. Section 4512, subdivision (b), makes clear that services fundable under the Lanterman Act must be specialized services or supports, or specially adapted generic services or supports, directed toward the achievement and maintenance of an independent, productive, and normal life. Here, it cannot be concluded that a typical college student living a normal life would maintain and pay for two separate residences while attending graduate school and not employed. (Legal Conclusion 11.)

40. Because claimant insists on maintaining two residences, he has made the generic resource of the HUD voucher unavailable for the Malibu residence, since that funding is being used for his weekend apartment in Orange County. (Legal Conclusion 14.) In any event, using public funds to pay for two homes, one a secondary residence rarely used (Corona Del Mar), is not cost effective. (Legal Conclusion 13.) In turn, service agency's providing this funding would be inconsistent with the cost control measures contained in the Lanterman Act meant to spare resources for the many consumers who share them. (Legal Conclusion 15.)

41. Finally, claimant and his family have failed to cooperate in the IPP process as far as this funding request is concerned. Claimant's mother refuses to provide any information about the Malibu location, the most important of which are

the address, a copy of the lease, and evidence of rent payments confirming the amount and location of the rental property. Service agency should not provide funding for a service when it has not been provided any information concerning it. (Legal Conclusion 17.)

42. As for reimbursement of past lease payments and related expenses, claimant failed to submit evidence showing such expenses were incurred, or that they were presented to service agency for consideration before payment was demanded. Even if such fundamental evidence had been presented, the equities do not weigh in claimant's favor, as he has held secret all information concerning his Malibu residence. It would be hard to conclude the principles of the Lanterman Act would be thwarted if claimant's rent payments for a second residence in Malibu are not subsidized. (Factual Findings 67-69; Legal Conclusions 18-20.)

## **ISSUE 7: FUNDING PCPA AT A HIGHER RATE**

43. Rates for residential services may not be negotiated when the rates are set by DDS. (§ 4681.6, subd. (e).) A regional center cannot provide funding for SLS services, work activity, or personal assistance greater than the rate set by DDS. (§§ 4648.4, subd. (b); 4689.8; 4691.6; 4691.9.) Claimant's mother has cited no legal authority allowing her to receive the rate increase she requests.

44. In this case, claimant's mother may not receive a higher hourly rate than her current 093 billing code allows, as the code 093 rate was set by DDS. To receive the higher rate under billing code 062, claimant's mother must submit an agency application with all of the supporting documentation and information, which she has not done. Although she could request an increase under the H&S Waiver, and has been provided information on that process by service agency staff, claimant's mother

has failed to do so. Under these circumstances, claimant's mother has not provided any justification that service agency can use to support a rate increase request to DDS. (Factual Findings 70-79.)

45. In his closing brief, claimant also requests this funding under "AB 637." As discussed by the parties during the hearing, AB 637 was enacted in the form of sections 4669.2 through 4669.75. Claimant's closing brief does not specifically address how these sections apply to his case, but simply states the law "permits alternative service models when existing vendorized programs are inadequate or unavailable." (Ex. SSS, p. B1296.) Aside from the vague nature of this citation, it is clear in this case that claimant's mother has not attempted to complete the two possible ways of obtaining a higher rate of pay for her PCPA program. Therefore, it was not established that the existing vendorized programs are inadequate or unavailable.

### **ISSUE 8: HEALTH INSURANCE PREMIUMS AND CO-PAYS**

46. As a threshold matter, the Appeal requests only reimbursement for past healthcare expenses submitted to service agency for payment. The Appeal does not discuss prospective funding for healthcare, including dental and vision, nor is there evidence that such requests were made during the IPP process. Thus, there is no jurisdiction in this matter to decide these requests made by claimant's mother during the hearing. (Factual Findings 3-11; Legal Conclusions 2-3.)

47. Claimant cites no legal authority allowing a regional center to fund insurance premiums, nor is the ALJ aware of any provision in the Lanterman Act allowing such funding.

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48. Section 4659.1, subdivision (b), does allow regional center funding for insurance co-payments, deductibles, or co-insurance, under the following circumstances:

If a service or support provided to a consumer 18 years of age or older, pursuant to the consumer's individual program plan, is paid for in whole or in part by the consumer's health care service plan or health insurance policy, the regional center may, when necessary to ensure that the consumer receives the service or support, pay any applicable copayment, coinsurance, or deductible associated with the service or support for which the consumer is responsible. . . .

49. By referencing only insurance co-payments, deductibles, and co-insurance, section 4659.1 makes clear that funding for insurance premiums is not available. Thus, claimant's request for insurance premium funding, either by reimbursement or prospective funding, must be denied for lack of legal authority.

50. As for co-payments, deductibles, and co-insurance, section 4659.1 limits available funding to services "pursuant to the consumer's individual program plan." In this case, claimant failed to establish by a preponderance of the evidence that any of the payments made by his family to Drs. Ballinger, Myers, Fernandez, Green, or any of the other providers referenced in the submitted documents, were done pursuant to agreements in the IPP to fund such healthcare services. (Factual Findings 80-94.) Thus, the reimbursement requests must be denied for lack of legal authority.

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51. Even if the conditions of section 4659.1 were met by claimant, there remains the failure of claimant to reasonably use and/or exhaust available generic resources. Before providing its own funding, service agency first is required to identify and pursue all possible sources of funding; it is prohibited from purchasing any service that would otherwise be available from generic resources. (Legal Conclusion 14.) The reimbursement expense documents and CalOptima denial letters that are in the record show claimant's mother knowingly selected healthcare providers not in CalOptima's network and chose to pay for their services knowing they did not accept payment from CalOptima. While claimant's mother testified CalOptima does not have qualified specialists who can treat her son, she provided no specifics, just her opinion. On the other hand, service agency staff provided testimony indicating thousands of other adults with autism routinely are able to meet their needs through CalOptima. By purposely choosing to use the family's private insurance instead of working with service agency staff and CalOptima to find specialists in network, claimant's mother essentially foreclosed the possibility of generic funding in this area. (Legal Conclusion 14.) The general cooperation expected of the parties in the IPP process dictated that claimant's mother address any such problems with service agency before resorting to her own selection of healthcare providers and incurring expenses she would later demand service agency reimburse her. (Legal Conclusion 17.)

52. Finally, claimant failed to establish by a preponderance of the evidence a basis for overcoming the general presumption against retroactive reimbursement. The legal principles cited above clearly show the reason and manner in which claimant's mother incurred the expenses in question are contrary to the dictates of the Lanterman Act. In essence, claimant's mother made unilateral decisions on healthcare providers for claimant, without reasonably collaborating with service agency staff, or claimant's own healthcare insurance carrier. She then sought to be reimbursed for

those expenses by service agency, even though she had excluded service agency from the process. Allowing reimbursement under these conditions would thwart the principles of the Lanterman Act. (Factual Findings 80-94; Legal Conclusions 17-20.)

### **ISSUE 9: VISION THERAPY**

53. Section 4512, subdivision (b), requires a fundable service and support to be related to specialized services and supports, or special adaptations of generic services and supports, directed toward a developmental disability. Claimant has not established his vision therapy is related to his diagnosis of autism. On the other hand, service agency submitted evidence indicating there is no known link between vision therapy and autism. Because vision therapy is not a specialized service or support, or special adaptation of a generic service or support, directed toward alleviating autism, this service falls outside the scope of services and supports regional centers are authorized to fund. (Factual Findings 95-100; Legal Conclusion 11.)

### **ISSUE 10: OT REIMBURSEMENT**

54. Claimant failed to prove by a preponderance that prospective OT funding is necessary to meet his IPP goals. (Legal Conclusion 10.) As a threshold issue, the reason for the proposed OT stated in the Appeal is in conflict with the reason stated by claimant's mother in her testimony. In addition, no assessment or progress report from OT's Popper or Daruwalla are in evidence, so it is unclear what the OTs recommended, what was done with claimant, or whether it has been beneficial. The record does not even show claimant's mother has found a new OT to provide the service. It also is unclear how OT would work in conjunction with claimant's current ABA program, as opposed to the ABA program handling the issues of concern. Thus, it

would not be cost effective to use more funding on a speculative new service when an existing one can be of benefit. (Factual Findings 100-110; Legal Conclusion 13.)

55. The request for reimbursement has several infirmities. For example, the Aetna documents are not clear what OT's Popper and Daruwalla did for claimant. Since there are no reports from the OT's in evidence, it is not clear that OT has been successful. There is no evidence in the record explaining why the orthotics and special shoes were purchased for claimant. It also is noted that the services of OT's Popper and Daruwalla were incurred before the January 2024 IPP meeting when claimant's mother requested OT funding and reimbursement. Thus, service agency was excluded from the process of these two OT's being retained and expenses incurred, meaning there was a failure of collaboration by claimant's mother. (Legal Conclusion 17.) Finally, claimant's mother failed to establish CalOptima was not a viable generic funding source for this service. She offered no evidence on this point other than her opinion that there is no competent OT within CalOptima's network. However, Dr. Himber offered his opinion that claimant's mother should have been able to find a viable OT provider through CalOptima, if she went through that agency's process. Thus, claimant's family failed to reasonably utilize an available generic resource. (Legal Conclusion 14.)

56. Providing claimant's family with the requested OT reimbursement funding would not be consistent with the above mandates of the Lanterman Act. Claimant's family opted out of CalOptima for OT services, and instead relied on its private insurance with Aetna, which paid most of the claims for services and equipment. Based on this dynamic, having claimant's family fund the residual amounts involved is a proper balance of the equities. (Legal Conclusions 18-20.)

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## **ISSUE 11: WI-FI, CELLPHONE, AND FAX LINE**

57. This funding request does not meet the definition of fundable services and supports provided in section 4512, subdivision (b), in that funding for internet, a cellphone, and a fax line are not specialized services and supports, or special adaptations of generic services and supports, aimed at alleviating a developmental disability. Moreover, the list of fundable services and supports contained in section 4512, subdivision (b), does not suggest any of these three expenses were intended to be funded by a regional center under the Lanterman Act. (Factual Findings 111-116; Legal Conclusions 11-12.)

58. In addition, section 4689, subdivision (h), makes clear that, absent circumstances which are not present in this case, "[r]ent, mortgage, and lease payments of a supported living home and household expenses shall be the responsibility of the consumer and any roommate who resides with the consumer." In this case, claimant's mother has requested an arrangement mimicking SLS for claimant while using his condominium in Malibu, operated by her. Since these types of household expenses are not fundable in an SLS program operated by a third-party vendor, they similarly are not available for a program designed to mimic an SLS program. (Factual Findings 111-116.)

59. Regional centers are required to be cost effective in order to preserve scarce resources for all participating consumers. (Legal Conclusions 13, 15.) In this case, it would not be cost effective or a wise use of limited resources to fund a support with no connection to alleviating a developmental disability.

60. Finally, the record does not demonstrate that service agency was requested to provide funding for these type of household services for claimant's three

family members. The involved NOA (Ex. 21) reflects a request for these expenses only for claimant; the same is true of the Appeal. Thus, there is no jurisdiction to consider funding for an expense that has not been properly vetted through the IPP process and been the subject of an NOA. (Factual Findings 1-11; Legal Conclusions 2-3.) In any event, since claimant is not eligible for this funding, neither are his family members.

## **Claimant's Closing Brief**

61. As the testimony of claimant's mother at times bore little resemblance to the issues identified in the Appeal, claimant's closing brief at times bears little resemblance to the evidence in the record. Thus, there are significant portions of the closing brief presenting factual arguments with nothing in the record supporting them, as well as issues that were either not contained in the Appeal or not broached by claimant's mother in her testimony. The more significant examples are requests for "SLS/ILS Services" (Ex. SSS, pp. B1278-1279), "Housekeeping Services" (*id.*, p. B1280), "ABA Services" [based on events happening in March 2025] (*id.*, pp. B1280-1281), "Advocacy and IPP Navigation" (*id.*, pp. B1293-1294), and "Housing Crisis and Emergency Inaction" (*id.*, pp. B1294-1295). Those passages of the closing brief are disregarded.

## **ORDER**

Service agency shall not fund Participant Directed Transportation at the IRS rate.

Service agency shall not fund for a personal chef for claimant.

Service Agency shall provide funding for (a) three personal training sessions per week at \$120 per session with either Jeff Buenos in Orange County or a personal

trainer contracted with Malibu Fitness in Malibu; (b) a gym membership for Malibu Fitness at \$154 per month; and (c) a bulk purchase at a discounted price of 12 sessions for a total of \$1,550, providing two sessions per week with Elektrik Body Pilates, accessible to claimant in both Orange County and Malibu.

Service agency shall not fund for a life coach for claimant.

Service agency shall not fund for a social and/or dating coach for claimant.

Service agency shall not fund for a health coach/occupational therapist for claimant.

Service agency shall not provide rental assistance funding for an apartment in which claimant resides while attending graduate school at Pepperdine University in Malibu, nor reimburse claimant's family for related prior expenses.

Service agency shall not fund Parent Coordinated Personal Assistance at a higher rate than presently provided.

Service agency shall not reimburse claimant's parents for health insurance premiums and co-pays.

Service agency shall not fund for claimant to receive vision therapy.

Service agency shall not reimburse claimant's parents for prior occupational therapy expenses or provide prospective funding for occupational therapy.

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Service agency shall not provide funding for internet, a cellphone, and a fax line for claimant, or for his family members.

DATE:

ERIC SAWYER

Administrative Law Judge

Office of Administrative Hearings

### **NOTICE**

This is the final administrative decision. Each party is bound by this decision. Either party may request reconsideration pursuant to subdivision (b) of Welfare and Institutions Code section 4713 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.



**BEFORE THE  
OFFICE OF ADMINISTRATIVE HEARINGS  
STATE OF CALIFORNIA**

**In the Matter of:**

**CLAIMANT**

**and**

**REGIONAL CENTER OF ORANGE COUNTY,**

**Service Agency.**

**DDS No. CS0021748**

**OAH No. 2024101069**

**ORDER DENYING APPLICATION FOR RECONSIDERATION AND  
RECUSAL**

On Saturday, June 14, 2025, Claimant filed a letter with the Office of Administrative Hearings (OAH) "request[ing] an immediate status update regarding the reconsideration and recusal request filed pursuant to Welfare and Institutions Code § 4712(g) in the above-referenced matter." The letter appears to relate to a "Motion For Reconsideration And, In The Alternative, Motion For Judicial Recusal" (Motion) that Claimant's representative filed on May 2, 2025, two days after the hearing officer sustained some of Regional Center of Orange County's (RCOC's)

objections to Claimant's exhibits, and the same day as the hearing officer denied the second of two requests of Claimant's representative for the hearing officer to disqualify himself. (See Orders [Apr. 30 and May 2, 2025].) In an order dated May 5, 2025, the hearing officer ruled the Motion would be disregarded because it renewed previously denied requests and was filed in violation of prior orders.

The Decision in this matter was issued on May 20, 2025. It ordered RCOC to provide funding for personal training sessions, a gym membership, and Pilates sessions for Claimant, while denying requests for funding from RCOC for various other items.

The letter from Claimant's representative is deemed to be an application for reconsideration under Welfare and Institutions Code section 4713. Under subdivision (c) of that statute, the application has been referred to the undersigned, who did not write the Decision.

RCOC has not filed a response to the application.

"Within 15 days of the date of the final hearing decision, a party may apply to the hearing office or to the director responsible for issuing the final decision for a correction of a mistake of fact or law, or a clerical error in the decision or in the decision of the hearing officer not to recuse themselves following a request pursuant to subdivision (g) of Section 4712. . . ." (Welf. & Inst. Code, § 4713, subd. (b).)

The June 14, 2025 letter was filed 25 days after the date of the final hearing decision, not within 15 days as required for an application for reconsideration. But in any event, the letter does not demonstrate a basis for relief under Welfare and Institutions Code section 4713. The Motion to which the letter appears to relate does not demonstrate any error in the hearing officer's rulings on evidence or

disqualification. As to the rulings on evidence, nothing in the Motion demonstrates a mistake of fact or law or clerical error that requires correction. As to disqualification, Claimant's representative had to request disqualification "prior to the taking of evidence at [the] hearing." (Welf. & Inst. Code, § 4712, subd. (g).) But Claimant's representative did not make the request until the hearing was underway, evidence had been received, and the hearing officer had made rulings on the parties' exhibits. Therefore, the request for disqualification was untimely, and the hearing officer did not make a mistake of fact or law in denying it on that basis.

In the letter, Claimant's representative also contends the original disqualification request was "erroneously routed" to the hearing officer himself in violation of "principles of neutral review." But the hearing officer was expressly authorized to decide the disqualification request himself, subject to the application for reconsideration process that is being followed here. (Welf. & Inst. Code, § 4712, subd. (g) ["The issue [of disqualification] shall be decided by the hearing officer and may be reviewed as part of the reconsideration process . . . ."].) Furthermore, the allegations of bias and partiality leveled against the hearing officer appear to arise from the dissatisfaction of Claimant's representative with some of the rulings on evidence. But "[t]he mere fact that the [hearing officer] issued rulings adverse to [Claimant] on several matters in this case, even assuming one or more of those rulings were erroneous, does not indicate an appearance of bias, much less demonstrate actual bias. [Citation.]" (*Brown v. American Bicycle Group, LLC* (2014) 224 Cal.App.4th 665, 674.)

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Therefore, the application for reconsideration is denied.

DATE:

THOMAS HELLER

Administrative Law Judge

Office of Administrative Hearings