BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

CLAIMANT

and

SOUTH CENTRAL LOS ANGELES REGIONAL CENTER,

Service Agency

DDS No. CS0022887

OAH No. 2025120600

DECISION

Thomas Lucero, Administrative Law Judge, Office of Administrative Hearings, State of California, heard this matter by telephone and videoconference on September 24, 2025.

Tami Summerville, Fair Hearings Manager, represented the Service Agency, South Central Los Angeles Regional Center. Karina Lopez Zuñiga represented Claimant, whose name, and names of family members are not used, to preserve privacy. The parties were assisted by Spanish interpreters, Juan Pablo Ayala and Ivone Reyes.

This matter is governed by the Department of Developmental Services (DDS) and the Lanterman Developmental Disabilities Services Act, Welfare and Institutions Code sections 4500 through 4885 (Lanterman Act), and by implementing regulations. Each regulation cited below is a section of title 17 of the California Code of Regulations.

Documents and testimony were received in evidence. The record closed and the matter was submitted for decision on September 24, 2025.

STATEMENT OF THE CASE

Claimant contends the Service Agency should increase respite hours from 50 to 60 per month. Mother is a single mother of two children with disabilities, both clients of the Service Agency. She believes she has need of more time to attend to her own and her children's well-being. The Service Agency recently re-evaluated the family's need and has twice granted an exceptional number of respite hours, enough, in the view of the Service Agency, to meet the need.

FINDINGS OF FACT

1. The Notice of Action (NOA) was served on December 17, 2024. Claimant timely appealed and requested a fair hearing.

2. Claimant is eligible for services and supports based on a diagnosis of autism, also called autism spectrum disorder (ASD). He is 20 years old and lives with his mother and brother.

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Medical Condition

3. In a note, Exhibit 3, page A41, dated May 12, 2023, Jenny Zipkin, M.D., AltaMed Medical Group, Children's Hospital of Los Angeles, wrote that Claimant's chief complaints were: "Feeding Problems, Trouble sleeping, and Behavior Problems." She also wrote a "Patient Active Problem List," listing several diagnoses:

> Autism
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> Borderline intellectual functioning
>
> Impaired memory
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> Anxiety
>
> Behavioral insomnia of childhood
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> Keratosis pilaris [a common skin condition characterized by small rough bumps on the skin of various parts of the body, such as the upper arms or thighs]
>
> Deviated nasal septum
>
> Allergic rhinitis [also known as hay fever]
>
> Hematochezia [passing blood from the rectum]
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> Burping
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> Proteinuria [excessive protein in the urine]
>
> Helicobacter pylori gastritis [inflammation of the stomach lining caused by bacteria]

Vocal cord ulcer

2024 IPP Report

4. Exhibit 2 is Claimant's October 15, 2024 Individual Program Plan (IPP) report. Under "Health and Safety," the IPP report describes Claimant's "Current Status," on page A25:

> Per Psychological evaluation dated 12/23/2020, Autism Spectrum Disorder. Social communication: Severity 1: Requiring support. Restrictive Repetitive Behaviors: Severity 1: Requiring support. Borderline Intellectual functioning, related borderline delays in communication skills, related borderline delays in adaptive skills. . . . He is taking prescribed medication for insomnia (Melatonin), constipation (MiraLAX), and acid refluxes (Nexium). No side effects reported.

In her testimony at the hearing, Mother emphasized Claimant's condition related to his stomach, including frequent burping and similar problems with digestion. Regarding this condition, the IPP report, page A25, states:

> [Claimant] has a new Gastrologist . . . . Please note that [Claimant] has a history of "stomach bacterial infection" that was treated but he continues to have side effects (coughs out mucus occasionally). [Claimant] is allergic to dirt and dust in which mother ensure that home is always clean to prevent his allergies.

5. Testimony on Claimant's behalf emphasized the severity of his condition or disability. For instance, Mother testified that Claimant's burping and digestive difficulties are severe enough that they discourage would be caregivers from working with him. The IPP report, Exhibit 2, page A29, under "Skills Demonstrated in Daily Life," provides some insight into the relation between Claimant's condition and his ability to act and care for himself:

> [Claimant] is verbal in English and Spanish. He can express his needs and wants using sentences of three or more words. [Claimant] is very shy and will not initiate an interaction with others. He is able to respond to simple and yes or no questions. He typically looks at mother when asked a question so she can respond for him. Mother tends to encourage him to answer which he eventually does with her support.

Claimant is able to move about in normal ways, can feed and dress himself with assistance, and with assistance can handle activities of daily living. As the IPP report noted, page A29:

> [Claimant] is ambulatory. [Claimant] can walk, run, jump, climb and hop with good balance. He can also use both his hands to manipulate objects. He can utilize eating utensils without spillage. When it comes to activities of daily living, [Claimant] can perform personal care and dressing but needs assistance. Mother assist[s] [Claimant] during showers by telling him to first shampoo before conditioning, to scrub his back, and to rinse soap off.

> Mother also helps [Claimant] floss, toothbrush, shave and trim his nails. Mother helps [Claimant] with shoe lacing, buttoning, and selecting daily outfits. Mother also reported that [Claimant] needs assistance with other task[s] such as laundry, cleaning his bedroom, meal preparing, money management, counting, and shopping. Also, [Claimant] is toilet trained. He has bladder and bowel control.

6. Mother testified that Claimant does not understand danger and needs supervision. As the IPP report stated, again under "Skills Demonstrated in Daily Life," pages A29 to A30:

> [Claimant] also requires someone nearby to avoid injury/harm in unfamiliar settings. His mother constantly provides him with safety cues and reminds him to be precautious at home and in the community.

7. The IPP report described Claimant's behavior in general, noting in Exhibit 2, page A32, no particularly challenging behaviors:

> Mother reported that [Claimant] is a sweet and passive guy. He does not display challenging behaviors. However, [Claimant] is receiving 4 hours per week of Applied Behavioral Analysis (ABA) through Viva Superhero. Mother shared that ABA therapist is working on increasing his self-advocate skills.

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Testimony by Service Agency Personnel

8. Yvette Frausto has been Claimant's Service Coordinator (SC) since mid-November 2024. She is in regular contact with families and family members such as Mother, providing case management and making sure families have the resources they need. Some of these resources are from generic sources, generic because the resources are widely available to the public, and not only to clients of the Service Agency. Examples of such generic resources are the Social Security benefits Claimant receives. Another notable example is the in-home supportive services (IHSS) Claimant receives from the California Department of Social Services (CDSS).

9. SC Frausto has not met Claimant himself, but she has met Mother, who explained that she needs respite, a break from the care of her children, while she keeps medical appointments. She needs respite also because she is taking immigration classes. SC Frausto testified that Claimant received at first 30 hours per month of respite services. The Service Agency increased these hours to 46 per month. Then in June 2025 there was an increase to 50 hours per month. Such an increase was approved as an exception to the Service Agency's written policies, set out in the Purchase of Services Funding Standards (POS Funding Standards). The increases were based on the Service Agency's understanding of the family's needs and consideration of the demands on Mother's time within and outside the family.

10. SC Frausto consults with Kathy Garcia, Program Manager (PM) at the Service Agency, who oversees the work of several SC's, including SC Frausto. PM Garcia holds a master's degree in organizational leadership. Like SC Frausto, PM Garcia's duties include making sure families have the resources they need. PM Garcia reviewed Claimant's IPP report and is familiar with Claimant and his family. She is aware of the increases in respite hours the Service Agency approved on more than one

occasion, last increasing the hours in June 2025 to 50 per month. She has, in consultation with SC Frausto, considered the family's request for more respite hours and they also consulted the Service Agency's leadership committee. PM Garcia believes that the Service Agency properly denied the request for more respite and that the family's need has been met.

11. As both SC Frausto and PM Garcia testified, they and the Service Agency are required by law to consider whether services provided a family are cost-effective. The law mandates that a Service Agency, as far as possible, conserve public funds. Thus Welfare and Institutions Code section 4659.10 provides that a regional center is the "payer of last resort." This means that funds for services and supports may not be disbursed by the Service Agency if there is available funding from a source other than the Service Agency. In this case that means that SC Frausto and PM Garcia properly considered the IHSS hours and other services and supports that the family is receiving from sources other than the Service Agency.

Claimant's Evidence

12. Mother testified that because of his ASD, Claimant cannot tolerate being with strangers. For their part, many people who have been asked to care for Claimant are unwilling to do so because of his stomach issues, especially his burping. Making matters worse, prospective caregivers, both friends and family, have been unwilling to provide hours of care paid by IHSS because they would be paid for only a few hours of care, about three hours per day. In Mother's view, people are unwilling to drive to work, to Claimant's and Mother's home, and provide care in such circumstances. Mother stated that because of all the demands on her time and attention, she has not slept well or enough for an extended period.

13. Mother is the provider of Claimant's Personal Assistance (PA). She is asking that Claimant's brother be paid to provide respite hours and PA. Claimant had a PA at school, but that assistance was removed not, as Mother stated, because his condition or circumstances at school improved. Rather, they worsened. According to Mother, Claimant was often ill or suffered physically at school because he was denied the breaks he needed and at other times he was not allowed to drink water and he ate his lunches at school, but the food was not healthy. Mother stated moreover that Claimant had no friends at school and it was better that he finished the school year at home, where he felt safe and secure and was happier.

14. Karina Lopez Zuñiga represented Claimant and Mother and gave testimony. She believes, having observed the family, that Mother is overwhelmed by her family's needs for care. Mother's sleep, among other things, suffers as a result. Mother needs more than 50 hours of respite per month, in Ms. Lopez Zuñiga's estimation, and would use the hours for her own and the family's needs, to keep all of them healthy. Ms. Lopez Zuñiga stated that though Mother is under great stress, she has been an excellent mother and has cared well for the family.

LEGAL CONCLUSIONS

1. Under Evidence Code sections 115 and 300, the standard of proof in this matter is proof by a preponderance of the evidence. Since he seeks to change the status quo, Claimant bears the burden of proof. The party asserting a claim or making charges generally has the burden of proof in administrative proceedings. (See, e.g., *Hughes v. Board of Architectural Examiners* (1998) 17 Cal.4th 763, 789, fn. 9.)

2. Welfare and Institutions Code section 4690.2 provides in part:

(a) The Director of Developmental Services shall develop program standards and establish, maintain, and revise, as necessary, an equitable process for setting rates of state payment, based upon those standards, for in-home respite services purchased by regional centers from agencies vendored to provide these services. The Director of Developmental Services may promulgate regulations establishing these standards and the process to be used for setting rates. "In-home respite services" means intermittent or regularly scheduled temporary nonmedical care and supervision provided in the client's own home, for a regional center client who resides with a family member. These services are designed to do all of the following:

(1) Assist family members in maintaining the client at home.

(2) Provide appropriate care and supervision to ensure the client's safety in the absence of family members.

(3) Relieve family members from the constantly demanding responsibility of caring for the client.

(4) Attend to the client's basic self-help needs and other activities of daily living including interaction, socialization, and continuation of usual daily routines which would ordinarily be performed by the family members.

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3. The Service Agency has published Purchase of Services (POS) Funding Standards. The POS Funding Standards concerning respite services state in part, Exhibit 4, page A43:

> All families, at times, experience the need for respite. In most cases, a family of a child with developmental disabilities is able to provide for respite with the assistance of family members, friends or caregivers as they would for a typical child. In circumstances where such resources are unavailable or inadequate to meet the family's needs for respite, the regional center may purchase respite services. Regional center may only purchase respite services when the care needs of the individual exceed those of a person of the same age without a developmental disability.

Exceptions may be made, but generally, in the absence of exceptional circumstances, the maximum number of hours of respite that the Service Agency may provide are set out in the POS Funding Standards, Exhibit 4, page A45:

> SCLARC will not purchase more than 21 days of out-of-home respite services in a fiscal year nor more than 90 hours of in-home respite in a quarter, for a consumer. The regional center may grant an exemption from the respite limits if it is demonstrated that the intensity of the consumer's care and supervision needs are such that additional respite is necessary to maintain the consumer in the family home, or there is an extraordinary event that

> impacts the family member's ability to meet the care and supervision needs of the consumer.

The provision of the POS Funding Standards just quoted cited a section of the Welfare and Institutions Code, section 4686.5, that has since been repealed. The guidance provided by the POS Funding Standards remains valid in light of Welfare and Institutions Code section 4690.2, quoted above. The POS Funding Standards, page A46, further provide, pertinent to the maximum number of respite hours:

> SCLARC will not purchase more than 90 hours of in home respite in a quarter. If the family is requesting more than 90 hours per quarter, further consultation with the ID team is needed. Documentation will also be needed to demonstrate the intensity of the consumer care and supervision needs are such that additional respite is necessary to maintain the consumer in the family home, or there is an extraordinary event that impacts the family member's ability to meet the care and supervision needs of the consumer.

The POS Funding Standards describe levels of respite that may be appropriate. The lowest, Level A, provides for 16 hours per month of respite if at least three criteria are met: A1, the Service Agency's client has special medical needs; A2, the client's behavior is difficult to manage; A3, supervision is necessary because of the client's disability; A4, the caregiver is under stress; and A5, the family is under stress because it cannot meet the client's need. Higher levels, through Level E, providing 40 hours per month of respite, take into consideration similar factors, that are, however, more intense. Thus Level C has these criteria, set out in Exhibit 4, pages A48 through A49:

Up to 30 hours per month of respite may be authorized by the ID Team if Level B is met and three or more of the following is present: [¶] . . . [¶]

C.1 MEDICAL: Consumer is medically fragile and requires care on a periodic basis during the day, e.g. Gastrostomy tube feedings . . . .

C.2 BEHAVIORAL: Consumer is demonstrating ongoing challenging or atypical behavior(s) beyond age-expectations (e.g., aggression, self-abuse, disruptive/destructive behaviors, extreme irritability, atypical behavior related to a psychiatric disorder). Requires Behavioral Assessment

C.3 SELF-CARE: Consumer has chronic medical and physical needs requiring total care in at least two areas, ie., personal hygiene, eating/feeding, bathing, and dressing. . . .

C.4 CAREGIVER CONDITION: Caregiver has physical or medical condition requiring frequent treatment, or Caregiver has chronic physical or medical issues which are impacting his/her ability to care for the consumer . . . .

C.5 FAMILY STRESS FACTORS: Two or more consumers in the family, or Consumer is at risk of being abused, or Family is receiving counseling for stress-related issues.

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ANALYSIS

4. The Service Agency has more than once reconsidered the services and supports the family was receiving. It did so on two occasions, for increases to 46 and then to 50 hours per month, following the Service Agency's consideration of Mother's requests for more respite than the family had already been receiving. The Service Agency accommodated Mother and the family by approving respite hours beyond those normally approved for a family in circumstances like those faced by Claimant and his family. Under the POS Funding Standards, 16 hours of respite per month, respite at Level A, would normally be authorized and approved.

5. Respite hours at least at Level A were appropriate because, under criterion A3 of Level A, Claimant requires supervision or assistance with self-care needs related to his delay or disability. More importantly, under criterion A4, the caregiver, specifically Mother, is under stress. Mother is under stress because she is a single mother and both her children have delays and disability. As she testified, taking care of her children without another parent to help out at times poses difficulties. Mother's testimony also indicated that the family is under stress, and so meets criterion A5.

6. There was no showing by Mother on Claimant's behalf that the family met higher criteria for respite hours beyond the 16 hours per month of Level A under the POS Funding Standards. As Service Agency personnel testified, however, they have discretion to provide respite hours at higher levels if they believe there are justifying circumstances, even if the family may be unable to show or has not shown that criteria for respite at higher levels than Level A have been met. That is what happened here, more than once. Mother spoke convincingly, more than once, of her stress level and based primarily on that the Service Agency accommodated Mother and the family

with, at first 30 hours per month of respite, then 46, and then, most recently, in June 2025, 50 hours per month.

7. Since June 2025, Mother has continued to emphasize her stress in caring for the family, but the evidence did not show that that stress has increased significantly. The lack of such evidence is highlighted by consulting Level C of the POS Funding Standards relating to respite at 30 hours per month. The evidence did not demonstrate the intense need for more respite for this family at Level C. Among other things, Level C, criterion C3, considers a consumer's behaviors. Claimant has not been shown to demonstrate ongoing challenging or atypical behavior. On the contrary, the IPP report notes, Exhibit 2, page A32, Mother's report that Claimant is sweet and passive and does not display challenging behaviors.

8. There is good reason to conclude that, though Mother's case for a higher level of respite was far from strong, the Service Agency gave her the benefit of the doubt and has fully met any need the family has for respite.

ORDER

Claimant's appeal is denied.

DATE:

THOMAS LUCERO
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 a 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.