

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

In the Matter of:

CLAIMANT

and

NORTH LOS ANGELES COUNTY REGIONAL CENTER,

Service Agency

DDS No. CS0022976

OAH No. 2024120709

PROPOSED DECISION

Glynda B. Gomez, Administrative Law Judge, Office of Administrative Hearings (OAH), State of California, heard this matter by videoconference on March 24, 2025, June 24, 2025, and August 28, 2024.

Claimant was represented by his father who is an attorney. Claimant's mother was also present. Claimant was not present. Claimant's independent facilitator Claudia Wenger was present for portions of the hearing. The names of Claimant and his family members are not used in this proposed decision for privacy reasons.

Corine Adhoot, Fair Hearing Manager, represented the North Los Angeles County Regional Center (NLACRC).

Oral and documentary evidence was received. The record was closed, and the matter was submitted for decision on August 28, 2025.

A protective order was issued for Exhibits 4-13 and 20, F, I2,A2, B-E, F2, G2 H-P, X, and AA-FF.

ISSUE

Should NLACRC fund 168 hours per week of Applied Behavior Analysis (ABA) services consistent with service code 615 for Claimant?

FACTUAL FINDINGS

1. The Department of Developmental Services (DDS) administers the Lanterman Developmental Disabilities Act (the Lanterman Act or the Act) to ensure that necessary services and supports are provided to persons with developmental disabilities to help them lead more independent, productive, and normal lives. (Welf. & Inst. Code, § 4500.) NLACRC is one of 21 nonprofit regional centers established by the Act “to evaluate the developmentally disabled persons (whom the Act calls ‘consumers’), develop individually tailored plans for their care, enter into contracts with direct service providers to provide the services and support set forth in the plans, and monitor the implementation of those contracts and the consumers’ plans. [Citations.]” (*Shalghoun v. North Los Angeles County Regional Center, Inc.* (2024) 99 Cal.App.5th 929, 937.) Each regional center serves consumers within a particular geographic area of

the state known as a "service catchment area," as specified in a contract with DDS. (Welf. & Inst. Code, §§ 4620, subd. (a), 4640, subd. (a); Cal. Code Regs., tit. 17, § 54302, subd. (a)(58).)

2. Claimant transitioned from the traditional model of receiving services and supports through NLACRC vendors to the Self-Determination Program (SDP) on March 1, 2022. The SDP is a voluntary program under the Lanterman Act designed "to provide participants and their families, within an individual budget, increased flexibility and choice, and greater control over decisions, resources, and needed and desired services and supports" than the Act's traditional model for delivery of services and supports. (Welf. & Inst. Code, § 4685.8, subd. (a).) The SDP allows participants and their families to have an annual budget for services and supports to meet the objectives of the participant's Individual Program Plan (IPP). (Welf. & Inst. Code, § 4685.8.)

3. On November 22, 2024, NLACRC issued a Notice of Action (NOA) denying Claimant's request "to fund 168 hours per week of ABA [Applied Behavioral Analysis] consistent with service code 615." Claimant filed a timely appeal of the NOA requesting a hearing on the denial. All jurisdictional requirements have been met.

4. Claimant is an almost 23-year-old conserved young man who is eligible for regional center services due to a diagnosis of Autism Spectrum Disorder (ASD). Claimant's local school district found him eligible for special education under the categories of autism and intellectual disability. Claimant completed his educational program and has transitioned to supported work and volunteer opportunities.

5. Claimant lived with his parents and younger sibling until October of 2024. At that time, Claimant's parents and sibling relocated to a different residence a few miles away. Claimant remained as the sole occupant in the former family home.

Claimant's parents believed that it would be easier for Claimant to transition to living independently if he was allowed to remain in the former family residence. The former family home had been adapted and modified for Claimant's safety.

6. Claimant has a complex health situation. In addition to his ASD, Claimant has severe communication deficits and Apraxia. Claimant has seizures (controlled by medication), irregular sleeping patterns, Crohn's Disease, Pancreatic Insufficiency, and Chronic Pouchitis from a Colectomy in 2016. Claimant has a very restricted diet due to his ongoing health issues. Claimant takes multiple medications including a nightly suppository. Claimant has experienced several medical emergencies resulting from his various medical issues over the last few years.

7. Claimant has behavior issues which include elopement and violent/disruptive behavior. Claimant requires assistance with all daily living activities including toileting. He becomes very agitated and frustrated when trying to communicate. Previously, his frustration has resulted in him hitting and scratching his mother, who has been his primary caregiver until she moved out of the home. Claimant also grabs things from strangers and damages property of others. Claimant utilizes an Augmentative Assistive Communication (AAC) device, but often becomes frustrated with it and has damaged it on occasion. He points, uses commands such as "done" and "no" to signal when he wants to stop an activity or have his mother stop something. Before Claimant's mother moved out of the home, she saw an increase in his behavior episodes when she did not give him her uninterrupted attention. Claimant has a service dog that is trained to keep him from eloping. The dog is tethered to Claimant and is trained to sit down if Claimant attempts to elope. Claimant knows how to untether from the service dog, but has generally responded to his mother's instruction to reconnect the tether.

8. Claimant's IPP contains a goal/outcome #5 to "live independently with the proper supports in place to keep him safe in all settings." (Ex. B.)

9. The parties agree that at this time, Claimant requires a minimum of two to one support 24 hours a day/7 days per week. The parties have agreed that one of the two support personnel will be a Supported Living Services (SLS) staff member. SLS services are provided by Modern Support Services LLC (Modern). NLACRC asserts that a "behavior trained" personal assistant (service code 062) or "behavioral PA" is sufficient to fill the second support person role. Notably, there is no specific designation of a "behavioral PA" in the regulations or service codes.

10. Claimant asserts that he needs 2 to 1 staffing to meet his needs and that one of those staff members should be funded by NLACRC under its Service Code 615. Service Code 615 requires personnel with a minimum of a Bachelor's degree with one year of experience and twelve units of pertinent behavior education or two years of experience in the behavior field. Claimant relies upon a report from adaptive skills training provider Mountain Light for support for his position. Claimant asserts that his need to generalize his ABA training to all settings and extraordinary needs exceed the capability of a personal assistant. Claimant also finds it difficult to attract and retain appropriate support personnel for the rate NLACRC funds for a personal assistant because the position requires expertise and too much work for the pay. Claimant's parents have routinely supplemented the pay of staff members from their own funds. All parties agree that there is no additional compensation or higher rate for a "behavior trained" personal assistant than there is for a generic personal assistant.

11. The rates at which various support personnel are funded and the pay rates established are beyond the scope of this appeal, which is limited to whether or

not NLACRC should fund 168 hours per week of ABA services pursuant to Service Code 615.

12. Claimant and his parents are concerned about his safety and maintaining an adequate level of support for Claimant when living independently. When Claimant lived with his family, in addition to paid staff and ABA providers, he had the support of his younger brother and his parents. Claimant's parents are both college educated and well-versed in the principles of ABA from various trainings and conferences they attended and 20 years of working on ABA strategies and techniques with Claimant. The loss of parents' acquired expertise and experience on a 24/7 basis is not insignificant.

13. NLACRC asserts that it funds ABA as an intensive behavior intervention (IBI) for up to 40 hours per week depending on the needs of the consumer and the determination of the IPP team. Claimant receives ABA, in an amount less than 40 hours per week, as an IBI, and that ABA IBI program is not at issue in this appeal.

14. Board Certified Behavior Analyst (BCBA) and Board Certified Assistant Behavior Analyst (BCaBA) are proprietary designations made by the Behavior Analyst Certification Board, a national organization that certifies its members and provides a Code of Ethics for its certified behavior analysts. (Ex. LL). A BCBA designation requires a minimum Master's degree or higher education. A BCaBA designation requires a minimum Bachelor's degree or higher education. The qualifications for Behavior Management Assistant services under Service code section 615 are similar to the requirements of a BCaBA. (Ex. 21.)

15. NLACRC's 2024 Service Standards (Adopted by the Board of Trustees on March 13, 204 and approved by the Department of Developmental Services on July 29,

2024) define a personal assistant (Service Code 062) as providing "services...to assist consumers who require support in the following areas of activities of daily living, including bathing, grooming, dressing, toileting, meal preparation, feeding, and protective supervision. Personal assistant services are intended to provide adult consumers with appropriate care and supervision and assist consumers in maintaining community living arrangements...including the family home." (Ex. 17, p. 43.)

16. In April of 2024, while Claimant was still living with this family and had not yet transitioned to living in his own home, Mountain Light, a provider of Adaptive Skills Training (AST), performed a Functional Behavior Assessment (FBA) and developed an Individual Support Plan (ISP) for Claimant. In the FBA/ISP report signed by Behavior Consultant Jeanette Lepe MS, BCBA, Manager of Behavior Consultation, Lauri Simchoni, MS, BCBA, and Executive Director Catherine Lichtenberger, EdD, MFT, BCBA, Mountain Light made recommendations for support for Claimant's transition to Supported Living Services (SLS). The recommendations included the following:

*2:1 staffing 24 hours per day 7 days per week. Previous reports indicate that [Claimant] has had issues sleeping in the past, as a result, at least initially he should receive 2:1 support 24 hours per day. Awake overnight staff are requested. Mountain Light feel that 2:1 staffing is needed to ensure his health and safety.

*One of the two staff member should be behaviorally trained, consistent with service code 615.

*Mountain Light BCBA's will assist with hiring and training new staff as well as supporting [Claimant's] team. Mountain

Light is requesting 20 hours per week of support during the transition to SLS services for 6 months (May-November 2024).

*Mountain Light BCBA's will provide direct training and support to all staff who support [Claimant]. BCBA's will provide an average of 15 hours per week of ongoing support to his SLS team beginning in December 2024.

*Mountain Light BCBA's request an additional 16 hours of BCBA services each year to develop and update [Claimant's] Functional Behavior Assessment and Intervention Plan.

(Ex. D.)

17. The Mountain Light report suggests the following support from a BCBA:

[Claimant] will receive up to 20 hours per week of BCBA for 6 months beginning in May of 2024. This will allow BCBA's to participate in interviews and training of SLS and ABA staff. 20 hours of weekly support will be provided from May 2024-November 2024.

[Claimant] will receive 15 hours per week of ongoing BCBA support beginning in December 2024. Activities will include direct overlap and feedback with staff, training staff, reviewing data and progress, and developing program materials. These activities may include preparing materials

for live trainings, preparing video trainings on relevant topics, reviewing and graphing data, and developing materials for programs.

Mountain Light BCBA's request an addition[al] 16 hours per year of BCBA services to develop and update [Claimant's] Functional Behavior Assessment and Intervention Plan each year.

(Ex. D.)

18. The report also suggests that staff working with Claimant be trained to "monitor their voice tone and response style when intervening with challenging behaviors. They should use a calm but firm tone of voice. They should make sure that they use simple phrases and that they provide clear directions" and "intervene as soon as [Claimant's] behavior begins to escalate." (Ex. D.)

19. Claimant did not offer any testimony from the professionals who drafted the Mountain Light report to expound upon or clarify their recommendations. Additionally, there was no testimony or evidence from Mountain Light professionals concerning any changes or updates to Claimant's needs since his family moved away. Claimant's mother provided credible, knowledgeable and thoughtful testimony about Claimant's needs based upon her experience with Claimant. Her testimony is given great weight in considering Claimant's needs. The testimony of Claudia Wenger, Claimant's Independent Facilitator, also supported Mother's testimony.

20. Ani K. Drecker, M.S., APCC, Director of Behavior Services for Modern Support Services LLC wrote a letter dated January 20, 2024 directed to the

Administrative Law Judge clarifying the type of support offered by Modern's SLS personnel who work with Claimant. The letter provides:

Modern Support Services is authorized to provide 24/7 support; which approximated 744 hours (each month) of Supported Living Services with [Claimant]. Given Claimant's history and current presentations, Modern Support Services has observed the need-and continuance-for maintaining a 2:1 ratio of support (at all times) with team members who are equipped to address any heightened behavioral distress that may arise. The latter is deemed necessary to promote [Claimant's] (and others with his environment) safety, wellbeing, maintaining person-centered practices, and enhancing quality of life.

Modern Support is a vendor of North Los Angeles Regional Center for the following services: Supported Living Services (SLS), Independent Living Services (ILS), and the Community-Placement Program (CPP). Modern Support Services is ***not*** contracted to provide services such as: Applied Behavior Analysis (ABA) therapy nor behavioral Supported Living Services (SLS). Based upon observation, in addition to our services, [Clamant] requires services (such as Applied Behavior Analysis therapy) as a means to comprehensively and fully support all of the areas of parenting need-in order to maintain safety, health, and person-centered practices. ***While Modern Support***

Services is able to provide individualized behavioral support to each Support Recipient, our agency finds the need for the aforementioned service to occur simultaneously and be considered as distinct (i.e. separate) services with complimentary objectives-in alignment with each service provider's respective legal/ethical scope of practice. (Emphasis in original).

(Ex. F.)

21. Annette Sinanian, NLACRC's Behavior Services Supervisor is a BCBA and holds a Master of Science in ABA. According to Ms. Sinanian's credited testimony, there is a generally accepted principle in the field of ABA that no more than 40 hours a week of direct focused ABA is clinically appropriate in most cases. This type of direct ABA service is what is contemplated by Service Code 615 and is delivered by a behavior analyst, either a BCBA or a BCaBA. Service Code section 612 is for supervision of staff and is delivered by a BCBA. According to Ms. Sinanian, a Personal Assistant (Service Code 062) does not require a Bachelor's degree. However, a behaviorally trained personal assistant would be expected to have training and supervision by a behavior analyst such as a BCaBA or BCBA and would be trained in crisis intervention. Ms. Sinanian believed that Claimant's constellation of services and supports already accounted for the behavior analyst training and supervision hours that would be needed to train and supervise a personal assistant.

22. Jessica Poonsombat, NLACRC's Behavioral Consultant, holds a Master's degree in ABA and is a board certified BCBA. Ms. Poonsombat testified that she interpreted Mountain Light's recommendation to be about the training of staff provided to Claimant not about the credential level of the staff or about provision of

ABA IBI. According to Ms. Poonsombat, there is no objective evidence to support provision of ABA IBI on a 24 hour a day/7 day a week basis. Ms. Poonsombat understood Mountain Light's recommendation as Claimant needing staff that were trained, to implement and use ABA behavior management techniques. Ms. Poonsombat was confident that a personal assistant could be trained to meet Claimant's need.

23. All evidence considered, Claimant failed to establish by a preponderance of the evidence that he requires behavior analyst level services (service code 615) for provision of ABA IBI 24 hours per day/ 7 days a week or direct support/instruction from a behavior analyst 24 hours per day/ 7 days per week. Instead, the preponderance of the evidence established that Claimant's needs can be met by two staff persons 24 hours per day/ 7 days per week if one of the staff members is trained to deal with Claimant's behaviors and uses the ABA techniques and strategies that his parents have used since he was a small child, working in coordination with his SLS staff and with supervision from a behavior analyst.

LEGAL CONCLUSIONS

Legal Standards

1. Disputes about the rights of disabled persons to receive services and supports under the Lanterman Act are decided under the fair hearing and appeal procedures in the Act. (Welf. § Inst. Code, § 4706, subd. (a).) "'Services and supports for persons with developmental disabilities' means 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.”

(Welf & Inst. Code, § 4512, subd. (b).) The determination of Claimant’s services and supports “shall be made on the basis of the needs and preferences of the consumer or, when appropriate, the consumer’s family, and shall include consideration of a range of service options proposed by individual program plan participants, the effectiveness of each option in meeting the goals stated in the individual program plan, and the cost-effectiveness of each option.” (*Ibid.*; see also Welf. & Inst. Code, § 4646, subd. (a).)

2. Claimant has requested that NLACRC add funding of 168 hours per week of ABA services consistent with service code 615 to his SDP. NLACRC has not previously approved such funding and thus, Claimant is seeking to change the status quo. As the party proposing to change the status quo, Claimant bears the burden of proving the change is justified. (See Evid. Code, § 500; *In re Conservatorship of Hume* (2006) 140 Cal.App.4th 1385, 1388.) The burden of proof requires proof by a preponderance of the evidence, because nothing in the Lanterman Act or another law provides otherwise. (Evid. Code, § 115 [“Except as otherwise provided by law, the burden of proof requires proof by a preponderance of the evidence.”].)

3. Welfare and Institutions Code section 4686.2, subdivision (c)(1), defines “Applied behavioral analysis” for the purposes of the Lanterman Act as “the design, implementation, and evaluation of systematic instructional and environmental modifications to promote positive social behaviors and reduce or ameliorate behaviors that interfere with learning and social interaction.”

4. Welfare and Institutions Code section 4686.2, subdivision (c)(2), provides that “Intensive behavior intervention” means “any form of applied behavioral analysis that is comprehensive, designed to address all domains of functioning, and provided

in multiple settings for no more than 40 hours per week, across all settings, depending on the individual's needs and progress. Intervention can be delivered in a one-to-one ration or small group format, as appropriate."

5. California Code of Regulations, title 17, section 54342, subdivision (a)(12), provides that Service Code section 615 is for "Behavior Management Assistant." In relevant part it provides:

A regional center shall classify a vendor as a behavior management assistant if the vendor designs and/or implements behavior modification intervention services under the direct supervision of a behavior management consultant; or if the vendor addresses the function of a behavior of a consumer and designs, implements, and evaluates instructional and environmental modifications to produce socially significant improvements in the consumer's behavior through skill acquisition and the reduction of behavior, under direct supervision of a Behavior Analyst or Behavior Management Consultant, and meets either of the following requirements:

(A) Possesses a Bachelor of Arts or Science Degree and has either:

1. Twelve semester units in applied behavior analysis and one year of experience in designing and/or implementing behavior modification intervention services; or

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2. Two years of experience in designing and/or implementing behavior modification intervention services.

(B) Is registered as either:

1. A psychological assistant of a psychologist by the medical Board of California or Psychology Examining Board:
or

2. An Associate Licensed Clinical Social Worker pursuant to Business and Professions Code, Section 4996.18.

(Ex. 21A)

6. The preponderance of the evidence established that Claimant's needs can be met with the provision of a personal assistant (service code 062) who is "behaviorally trained" in ABA techniques and supervised by a behavioral analyst. Claimant has intensive needs, but does not need 24/7 intensive ABA IBI services to address those needs. Claimant needs consistency in personnel and implementation of behavioral strategies. Additionally, Claimant has experienced major changes including the change in his living situation and the completion of his educational program. He is now at a point where he is experiencing increased independence and the demands upon him have increased with the introduction of work and volunteer opportunities. He has been in his own home, without his family, for approximately 10 months. At this time, it would be appropriate to conduct a re-assessment of the level of support that Claimant needs and evaluate the effectiveness of the interventions and supports that have been in place during the last year.

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7. For the reasons set forth above, Claimant's request for 168 hours per week of ABA services consistent with service code 615 is denied. However, NLACRC will be ordered to provide funding for a one-time block of 100 hours of training and supervision to be provided to Claimant's personal assistant by a BCBA within 120 days of the effective date of this decision. Additionally, NLACRC shall conduct an updated assessment of Claimant's behavior, supervision and support needs within 180 days of the effective date of this decision.

ORDER

1. Claimant's request for 168 hours per week of ABA services consistent with service code 615 is denied.

2. NLACRC shall fund a one-time block of 100 hours of training and supervision to be provided to Claimant's personal assistant by a BCBA within 120 days of the effective date of this decision.

3. NLACRC shall conduct an updated assessment of Claimant's behavior, supervision and support needs within 180 days of the effective date of this decision.

DATE:

GLYNDA B. GOMEZ

Administrative Law Judge

Office of Administrative Hearings

BEFORE THE
DEPARTMENT OF DEVELOPMENTAL SERVICES
STATE OF CALIFORNIA

In the Matter of:

Claimant

OAH Case No. 2024120709

Vs.

DECISION BY THE DIRECTOR

North Los Angeles County Regional Center,

Respondent.

ORDER OF DECISION

On September 5, 2025, an Administrative Law Judge (ALJ) at the Office of Administrative Hearings (OAH) issued a Proposed Decision in this matter.

The Department of Developmental Services (Department) takes the following action on the attached Proposed Decision of the ALJ:

The Proposed Decision is adopted by the Department as its Decision in this matter. The Order of Decision, together with the Proposed Decision, constitute the Decision in this matter.

This is the final administrative Decision. Each party is bound by this Decision. Either party may request a reconsideration pursuant to Welfare and Institutions Code section 4713, subdivision (b), within 15 days of receiving the Decision or appeal the Decision to a court of competent jurisdiction within 180 days of receiving the final Decision.

Attached is a fact sheet with information about what to do and expect after you receive this decision, and where to get help.

IT IS SO ORDERED on this day September 29, 2025.

Original signed by:
KATIE HORNBERGER
Deputy Director,
Division of Community Assistance and Resolutions