

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

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

**CLAIMANT**

**and**

**SOUTH CENTRAL LOS ANGELES REGIONAL CENTER.**

**DDS Case No. CS0022208**

**OAH Case No. 2025020414**

**PROPOSED DECISION**

Eric Sawyer, Administrative Law Judge (ALJ), Office of Administrative Hearings, State of California, heard this matter on March 19, 2025, in Los Angeles. The record closed and the matter was submitted for decision at the conclusion of the hearing.

Claimant, who was not present, was represented by his mother. The names of claimant and his family members are omitted to maintain the confidentiality of this proceeding. A Spanish interpreter was provided for claimant's mother.

Tami Summerville, Appeals & Governmental Affairs Manager, represented South Central Los Angeles Regional Center (service agency).

## **ISSUE**

Shall service agency increase claimant's personal assistance services from 200 to 410 hours per month for the period of April through July 2025?

## **EVIDENCE RELIED ON**

In making this decision, the ALJ relied on service agency exhibits 1 through 7, and claimant exhibits C1 through C19. The ALJ also relied on the testimony of Service Coordinator Jacqueline Pantoja; Program Manager Mayra Munguia; Program Manager Cynthia Rivera; and claimant's mother.

## **FACTUAL FINDINGS**

### **Parties and Jurisdiction**

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.)
2. Claimant is a 12-year-old boy who is eligible for services under the Lanterman Act based on his qualifying diagnosis of autism spectrum disorder. (Ex. 2.)
3. On October 7, 2024, during a meeting with service agency staff, claimant's mother requested an increase in personal assistance service (PAS) funding from 200 to 410 hours per month. Claimant's mother advised the increase was needed due to her own medical treatment which would limit her ability to care for claimant, as

well as claimant's challenging behaviors which make it difficult for him to engage in his community activities. (Ex. 1.)

4. By letter dated October 10, 2024, service agency advised claimant's mother that her request for increased PAS funding was denied. Service agency explained the current amount of 200 hours per month was sufficient to meet claimant's needs, considering the time he spends in school and his schedule of community activities. To the extent the additional hours were requested to address behavioral issues, service agency advised that PAS hours were not an appropriate remedy, and that claimant's mother instead should contact claimant's primary care physician for behavior intervention services. (Ex. 1.)

5. On November 8, 2024, claimant's mother submitted to the Department of Developmental Services (DDS) an Appeal Request Form, in which she appealed service agency's denial of her request for increased PAS funding. (Ex. 1.)

### **Claimant's Relevant Background Information**

6. Claimant lives at home with his mother and two older sisters. He attends sixth grade at a charter school where he receives special education services, including speech therapy three to four times per week for 20 minutes, as well as occupational therapy twice a week for 20 minutes. (Ex. 2.) School hours typically are Monday through Friday from 8:00 a.m. to 3:00 p.m. (Testimony [Test.] of Pantoja.)

7. Claimant currently receives service agency funding for him to attend various community activities, including horseback riding, music therapy, cooking classes, a book club, swimming lessons, and golf lessons at a well-known country club in West Los Angeles. (Test. of Pantoja; Exs. 2, 3.) In addition, claimant likes to go to shops, parks, and classic restaurants. (Ex. 2, p. A35.) According to an activities schedule

calendar (activities calendar) presented by claimant's mother, these community activities are daily. (Ex. C9.)

8. Service agency also provides 45 hours per month of in-home respite. (Ex. C3.) According to the activities calendar, claimant's mother typically uses the respite Saturday mornings and evenings. (Ex. C9.)

9. Claimant is a recent participant in the Self-Determination Program (SDP). He currently is in his first budget year in the SDP; his budget totals approximately \$108,000. (Test. of Rivera; Ex. 3.)

10. In addition, claimant's family receives In-Home Supportive Services (IHSS) totaling 32.50 hours per month. (Ex. C6.) According to claimant's activities calendar, the IHSS hours typically are used in the early morning hours when claimant temporarily awakens for an hour or hour-and-a-half before returning to sleep. (Ex. C9.)

11. Claimant recently was evaluated by the Behavioral Health Institute of Children's Hospital Los Angeles (CHLA). As a result of the evaluation, CHLA recommends claimant attend weekly individual therapy sessions, as well as a social skills development group. (Ex. C17.) The timing of this evaluation strongly suggests it was related to service agency's above-described recommendation that claimant's mother seek behavioral intervention services for claimant.

### **Claimant's Past and Current Personal Assistance Services**

12. DDS generally defines PAS as a "service that assists the consumer with personal assistance and support to help the consumer be successful in their own home and in the community." (Cal. Code Regs., tit. 17, § 58886, subd. (e)(6).) Service agency more specifically defines PAS, for a minor, as a service "to assist with bathing,

grooming, dressing, toileting, meal preparation, feeding, and protective supervision that is a typical parental responsibility for minor children.” (Ex. 5, p. A59.)

13. According to service agency’s purchase of service policy concerning PAS (PAS Policy) for minor consumers:

Personal assistance services for minor children will be considered on an exception basis when the needs of the consumer are of such a nature that it requires more than one person to provide the needed care. There may be exceptional circumstances as a result of the severity and/or intensity of the developmental disability that may impact the family's ability to provide specialized care and supervision while maintaining the child in the family home. Eligibility and/or use of generic services such as In-Home Support Services must be explored and accessed where possible prior to SCLARC funding as an exception.

(Ex. 5, p. A59.)

14. Claimant’s individual program plan (IPP) was last updated in September 2024. According to that IPP, claimant received funding for 135 hours per month of PAS. The stated reason for that number of PAS hours was that claimant went out into the community daily, but did not do well in large crowds and required supervision at all times. (Ex. 5, p. A35.)

15. According to the September 2024 IPP, claimant’s PAS hours were temporarily increased to 420 hours per month, for the period of August 12, 2024, through September 30, 2024. While the IPP does not specify the reason for that

temporary increase, claimant's service coordinator, Ms. Pantoja, confirmed it was to address claimant being out of school during summer break. (Test. of Pantoja.)

16. Claimant currently receives funding in his SDP for 200 hours per month of PAS. Neither the SDP budget (Ex. 3) nor the September 2024 IPP (Ex. 2) explain the reason for this number of hours. Program Manager Mayra Munguia, who supervises Ms. Pantoja, did not know why claimant currently receives that amount. However, SDP Program Manager Cynthia Rivera testified those monthly hours were built into claimant's SDP budget based on the amount specified in claimant's IPP at the time his SDP budget was created.

17. Claimant's activities calendar shows a schedule where claimant uses 60 hours per week and 258 hours per month of PAS. However, that is neither the amount of PAS hours for which claimant is currently funded nor what his mother is requesting in this case. (Ex. C9.)

### **Claimant's Request for More Personal Assistance Service Hours**

18. Claimant's mother needs the PAS funding because her son has behavioral problems and can harm himself or others if not properly supervised. She is a single mother of three children, who also works and goes to school, and therefore needs assistance. Claimant's mother has no other family here or friends who can help her. (Test. of claimant's mother.)

19. In support of her testimony concerning the need to supervise claimant constantly, claimant's mother presented a letter claimant's pediatrician recently wrote to be used to request an increase in IHSS hours. In this letter, claimant's pediatrician noted claimant needs assistance with feeding, dressing, and grooming. She also noted

claimant bites himself, chews on his own hair, destroys property when he is upset, and tries to elope from home or when at medical/dental appointments. (Ex. C18.)

20. One reason claimant's mother requested more PAS hours is because claimant spends so much time in the community. However, as discussed above, claimant exhibits problem behaviors on such outings, including hurting himself and trying to elope. The PAS hours also are helpful for time conflicts, like when claimant's mother has to go to work or her own medical appointments at the same time claimant has a community outing. (Test. of claimant's mother.)

21. The other reason for requesting more PAS hours is to address significant health concerns experienced by claimant's mother. It is difficult to attend medical appointments, or undergo testing, while also caring for claimant. As discussed below, it is likely claimant's mother will need an operation, which will greatly limit her ability to care for claimant. (Test. of claimant's mother.) While claimant's mother presented letters and referrals from her primary physician and specialists detailing the medical concerns and procedures, the specifics are omitted below to protect her privacy.

22. Beginning in 2023, claimant's mother has received medical treatment for several chronic and serious health concerns. (Exs. C1-C2.)

23. In September 2024, her primary physician concluded claimant's mother may need surgery to address one major component of her health concerns, but that she must consult with various specialists to determine if surgery was a viable option. The physician estimated this process could take four months. (Exs. C4, C11, C12.)

24. In February and March 2025, claimant's mother saw specialists for medical testing and pre-operative analysis. (Exs. C13-C16.) In a letter dated March 6, 2025, her primary physician advised that claimant's mother will likely be undergoing

major surgery in the near future, and that during her time in recovery from surgery she will not be able to provide her usual level of care for claimant. (Ex. C8.)

25. Claimant's mother testified she is requesting four months of increased PAS hours due to the upcoming medical appointments and procedures. She has been unable to give service agency an exact date of an operation because her doctors have not given her one; she needs to do other tests and evaluations before that decision is made. She believes an operation will be scheduled if she can advise her doctors that she has a specific four-month period where she will have increased assistance caring for claimant. She also will need increased assistance after her operation. (Test. of claimant's mother.)

26. At hearing, claimant's mother also justified an increase in PAS hours for when claimant is out of school this summer. The record does not establish this reason previously was communicated to service agency, unlike the two reasons discussed above. Claimant's mother estimates an additional 560 hours of PAS is needed each year to cover when claimant is not in school due to holidays and vacation breaks. (Test. of claimant's mother; Ex. C9.)

27. At hearing, claimant's mother also discussed "transportation services." During the October 7, 2024 meeting, claimant's mother had requested transportation services, separate and distinct from PAS. At that meeting, service agency agreed to fund "Family Transportation Services" effective November 1, 2024, to support claimant's access to his community integration activities, with payments to be processed through 24 Hour Home Care. As part of her evidence, claimant's mother submitted an e-mail from 24 Hour Home Care. (Ex. C19.) However, it is not clear whether claimant's mother is requesting separate funding for transportation services or, if not, how transportation relates to her request for additional PAS hours.

## **Service Agency's Denial of Increased Personal Assistance Services**

28. Service agency offered the following reasons for affirming the denial of the requested increase in PAS hours.

29. Service agency believes the current level of 200 hours per month is sufficient to meet claimant's needs. This was the concerted testimony of all three service agency witnesses, i.e., Mmes. Pantoja, Munguia, and Rivera. In addition, Ms. Rivera and Ms. Munguia believe 200 hours per month of PAS already is an exception to service agency's PAS Policy, especially for a minor, and claimant's mother has not demonstrated the current level of funding is insufficient. In reference to claimant's activities calendar, Program Manager Rivera is skeptical that additional PAS hours would fit in claimant's current schedule, as he is already supervised most of the day through his current PAS funding, IHSS, respite, and school.

30. In concert with the above, service agency contends any hours not covered by compensated supervision (or school) should be handled by claimant's mother, in consideration of a family's typical responsibility for providing similar supports to a minor child without disabilities. (Test. of Munguia, Rivera.) Claimant's activities calendar shows his mother covers the early morning hours when claimant is sleeping, Saturday afternoons when taking claimant out to lunch and church, and Sunday evenings when preparing for dinner and the upcoming week. (Ex. C9.)

31. Service agency believes claimant's mother can better utilize the SDP budget process to generate more PAS hours. For example, Program Manager Rivera testified that under the SDP, claimant's mother can renegotiate a lower rate with the current PAS provider, or recruit a new provider who charges less, either of which would

result in a greater number of hours. Claimant's mother also can apply unused funds in the SDP spending plan for other services to pay for more PAS hours.

32. Service agency contended in its denial letter that generic resources had not been exhausted by claimant's family, but none of the service agency witnesses discussed this issue, and service agency did not identify a specific unused generic resource at hearing. Claimant's mother currently is using the IHSS hours allotted to her, and some evidence indicates she recently requested an increase in IHSS hours. Moreover, several hours each day are consumed by claimant's attendance at school. Thus, service agency failed to establish claimant's family is not utilizing an existing, unused generic resource.

33. Service agency argues another reason for denial is that transportation services are not available under the SDP. Program Manager Rivera testified that service agency policy prohibits any funds being used for transportation of a minor as a safety precaution; she conceded such funding is available under the traditional model as an exception. However, the purchase of service policy for transportation submitted by service agency does not discuss the SDP, and it does not prohibit or exclude funding for minors. (Ex. 7, p. A77)

34. Finally, service agency contends it has received insufficient information as to the nature, duration, or timing of claimant's mother's medical procedures. Service agency staff have requested, but were never given, a date specific when claimant's mother will have her surgery. (Test. of Munguia, Rivera.)

35. Notwithstanding the above, both Ms. Munguia and Ms. Rivera agree that if claimant's mother provides exact dates of her medical procedures and her medical

situation, service agency would reconsider increasing funding on a temporary, exceptional basis. (Test. of Munguia, Rivera.)

## **LEGAL CONCLUSIONS**

### **Jurisdiction**

1. An administrative fair hearing to determine the rights and obligations of the parties, if any, is available under the Lanterman Act. (Welf. & Inst. Code, §§ 4700-4716. Subsequent undesignated statutory references are to this code.)

2. Section 4710 delineates two types of notifications that a regional center is required to provide a recipient of services regarding a service decision or action from which a request for a fair hearing can result. In subdivision (a)(1) of section 4710, a regional center is required to provide a notification when it “makes a decision to reduce, terminate, or change services set forth in an [IPP].” 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. Pursuant to section 4710.5, subdivision (a), a recipient of services is entitled to a fair hearing when dissatisfied with a decision or action of a regional center, provided that the recipient of services files “a request within 60 days after notification of that decision or action. . . .”

4. It is clear from the above statutes that jurisdiction does not exist to decide a request for services that has not been previously requested for inclusion in an IPP and been the subject of a notification required by section 4710, or that is not

contained in a request for fair hearing under section 4710.5 but rather raised thereafter.

5. In this case, to the extent claimant is requesting transportation services distinct from his request for more PAS hours, such a request was not raised in his appeal filed with DDS as required by section 4710.5. Claimant's appeal only discusses the denial of his request for an increase in PAS funding and, therefore, that is the only service issue to be resolved in this decision.

6. While claimant's mother also discussed the upcoming summer break at claimant's school as a reason to increase his current PAS funding, that reason was not broached by her during the October 7, 2024 meeting. There is nothing in the record showing claimant's mother made that part of her request to increase claimant's PAS hours until the hearing. Moreover, there was insufficient evidence presented regarding that issue to allow the undersigned to make an educated decision. A fair construction of sections 4710 and 4710.5 is that a justification for changing a service not raised during an IPP meeting or in an appeal filed from that IPP meeting, but raised for the first time at hearing, should not be considered. Last year, service agency accommodated claimant's school break by temporarily increasing his PAS hours for six weeks. The parties should again discuss claimant's summer break, and if no resolution is reached claimant's mother can file an appeal. (Factual Findings 1-5.)

### **Burden and Standard of Proof**

7. As claimant is requesting a new amount of PAS hours, he bears the burden of proof. (See, e.g., *Lindsay v. San Diego Retirement Bd.* (1964) 231 Cal.App.2d 156, 161 (disability benefits).)

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8. The standard of proof 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.)

9. A proposed decision is issued because this case involves federal funding under the SDP. (§ 4712.5, subs. (d) & (e).)

## **Governing Law**

10. Section 4685.8 governs regional center consumers participating in the SDP. The purpose of the SDP is to provide participants and their families, within an individual annual budget, increased flexibility and choice, and greater control over decisions, resources, and needed and desired services and supports to implement their IPPs. (§ 4685.8, subd. (a).) The individual budget is the amount of regional center purchase of service funding available to the participant for the purchase of services and supports necessary to implement the IPP. (*Id.*, subd. (c)(3).)

11. When developing the individual budget used for the SDP, the IPP team determines the services, supports, and goods necessary for the participant, based on the needs and preferences of the participant, and when appropriate the participant's family, the effectiveness of each option in meeting the goals specified in the IPP, and the cost effectiveness of each option, as specified in section 4648, subdivision (a)(6)(D). (§ 4685.8, subd. (b)(2)(H)(i).) A participant's unique support system may include the purchase of existing service offerings from service providers or local businesses, hiring their own support workers, or negotiating unique service arrangements with local community resources. (*Id.*, subd. (b)(2)(B).)

12. The participant may utilize the services and supports available within the SDP only when generic services and supports are not available. (§ 4685.8, subd. (d)(3)(B).)

13. The budget may be adjusted when the IPP team determines that an adjustment is necessary due to a change in the participant's circumstances, needs, or resources that would result in an increase or decrease in purchase of service expenditures, or the IPP team identifies prior needs or resources that were unaddressed in the IPP, which would have resulted in an increase or decrease in purchase of service expenditures. (§ 4685.8, subd. (m)(1)(A)(ii)(I).)

14. Since participants still must create and update their IPPs, the other provisions of the Lanterman Act not expressly exempted in section 4685.8 apply to funding determinations within the SDP process.

15. Section 4646.4 requires a regional center, when developing or reviewing a consumer's IPP, to follow an internal process that adheres to federal and state law and regulation (subd. (a)(1)); utilize generic supports and services, if appropriate (subd. (a)(2)); and consider the family's responsibility for providing similar services and supports for a minor child without disabilities (subd. (a)(4)). These requirements are consistent with the above-cited provisions of section 4685.8 pertaining to cost-effective services and using generic resources when possible.

16. Section 4688.22, effective last year, places a high priority on promoting consumers' opportunities for recreation. This statute requires regional centers to adopt purchase of service policies and related procedures that will promote access to such services for consumers who are children (subd. (b)(3)(A)), and avoid generally prohibiting or disfavoring the purchase of these services (subd. (b)(4)(C)).

## **Disposition**

### **GENERALLY**

17. Claimant failed to establish by a preponderance of the evidence that an increase in his PAS funding is necessary to meet his needs, and would be cost effective, as required by section 4685.8, subdivision (b). (Factual Findings 6-33; Legal Conclusions 10-15.)

18. While claimant established his behaviors at home and in public warrant PAS, he currently receives funding for approximately 6.50 hours per day of PAS, which already is at an exceptional level for a minor. Claimant's mother failed to demonstrate how or why the current level of PAS funding is insufficient. In light of how many hours of the day already are covered by supervision, including the current level of PAS, it is fair to expect claimant's family to cover the other hours as part of the typical family responsibility contemplated by section 4646.4.

19. One of the hallmarks of the SDP is budget flexibility, including a family's ability to hire their own support workers or negotiate unique arrangements. (See § 4685.8, subds. (a), (b)(2)(B) & (c).) Here, claimant's mother has the flexibility to generate more PAS hours by such arrangements, if she deems that necessary.

20. Finally, it is not clear how transportation relates to claimant's PAS hours. Thus, while service agency's policy on transportation is not a reason to deny the request for more hours, claimant also failed to establish transportation is a reason to increase his PAS funding.

21. Claimant argues newly enacted section 4688.22 supports an increase of his PAS funding. However, claimant's SDP budget contains funding for a multitude of

social and recreational activities claimant currently enjoys. Claimant failed to show how his current level of PAS funding is preventing him from going out into the community, or how the failure to raise his PAS funding will jeopardize the same. Moreover, there is nothing in service agency's PAS Policy that appears to disfavor or prohibit community activities. Therefore, section 4688.22 does not warrant increasing claimant's PAS funding. (Legal Conclusion 16.)

### **CLAIMANT'S MOTHER'S HEALTH CONCERNS**

22. On the other hand, section 4685.8, subdivision (m), allows an SDP budget to be increased due to a change in a participant's circumstances. Service agency's PAS Policy mirrors this dictate, by allowing for exceptional funding when circumstances arise that may impact a family's ability to care for a child at home.

23. Here, claimant's mother has presented more than sufficient documentation from her doctors showing she has several chronic and serious medical concerns that must be addressed in the near future. The fact that a surgical date has not been set is understandable, given the other tests and evaluations she must undergo before being operated on. Leading up to her operation, and especially after it, claimant's mother will not be able to provide the same level of care for her son, and therefore an increase in PAS hours for a four-month period is justified. Service agency witnesses alluded to this, testifying they would be willing to reconsider increasing claimant's PAS hours if they had specific medical information, including a date of operation. However, the medical information presented by claimant's mother is specific enough. (Factual Findings 6-35; Legal Conclusions 10-15.)

24. In closing, service agency expressed concern that increasing PAS hours now without a surgery date may create problems if claimant's mother's medical

treatment is delayed. To be clear, the increase in claimant's PAS funding is temporary and related only to his mother's upcoming medical procedures and operation. This temporary increase is not intended to become indefinite if claimant's mother's operation is postponed indefinitely. Claimant's mother has estimated the four-month period to be April through July 2025, and it is expected that period will be sufficient for her to complete her medical procedures and have her operation. If there are delays in medical scheduling, claimant's mother may adjust the four-month period by giving service agency written notice of when the four-month period will begin. If claimant's mother utilizes the increased PAS funding and is unable to complete her medical procedures and operation, and her request for an extension of the increased funding is denied by service agency, she will have to establish a further period of increased PAS funding is warranted.

## **ORDER**

Service agency shall increase claimant's personal assistance services from 200 to 410 hours per month only for the period of April through July 2025, and consistent with the direction provided in Legal Conclusion 24.

DATE:

ERIC SAWYER  
Administrative Law Judge  
Office of Administrative Hearings

BEFORE THE  
DEPARTMENT OF DEVELOPMENTAL SERVICES  
STATE OF CALIFORNIA

In the Matter of:

Claimant,

OAH Case No. 2025020414

vs.

**DECISION BY THE DIRECTOR**

South Central Los Angeles Regional Center,

Respondent.

ORDER OF DECISION

On March 27, 2025, an Administrative Law Judge (ALJ) at the Office of Administrative Hearings (OAH) issued a Proposed Decision in this matter.

After a full and independent review of the record in this case and for the reasons explained below, the attached Proposed Decision is ADOPTED but MODIFIED as follows:

1. Welfare and Institutions Code section 4685.8, subdivision (m)(1)(A)(i)(ii)(I), permits a Self Determination Program (SDP) budget to be adjusted due to a change in a participant's needs, circumstances, or resources. After reviewing the evidence submitted in this case, the claimant met his burden of proof that an increase in Personal Assistant Services (PAS) in his SDP budget is necessary during the time claimant's mother undergoes surgery and until she recovers from such surgery. Claimant submitted sufficient documentation that his mother has several chronic and serious medical concerns that may require surgery and that she will be unable to provide the same level of care for claimant while she recovers from surgery. However, there was insufficient evidence provided by claimant identifying when the additional hours should begin because the mother has not yet disclosed her actual surgery date.

2. Before any increase in PAS hours is provided to claimant, both he and/or his authorized representative(s) and the regional center shall hold an Individual Program Plan (IPP) meeting consistent with Welfare and Institutions Code sections 4646 and 4648 to determine the following: (1) date of claimant's mother's surgery and how long the recovery process will be for the surgery; (2) what is an appropriate number of hours to increase PAS per month during claimant's mother's surgery recovery; (3) the time period for which claimant will need an increase in PAS hours per month while

his mother recovers from surgery; and (4) whether other generic resources related to PAS hours for claimant are available.

3. South Central Los Angeles Regional Center (SCLARC) shall assist claimant and/or his authorized representative(s) with requesting additional in-home support service (IHSS) hours, including but not limited to, connecting claimant with the Office of Clients' Rights Advocacy.

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

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

IT IS SO ORDERED on this day April 22, 2025.

*Original signed by:*

Pete Cervinka, Director