

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

In the Matter of:

CLAIMANT

and

HARBOR REGIONAL CENTER,

Service Agency.

DDS No. CS0024628

OAH No. 2025020893

PROPOSED DECISION

Administrative Law Judge Deena R. Ghaly, Office of Administrative Hearings (Hearing Officer), heard this matter on June 11, August 11, and December 16, 2025, by videoconference.

Claimant's mother (Mother) and Lourdes (Lulu) Aguilar represented claimant. (Claimant's and Mother's names are not used in this proposed decision to protect their privacy.) Latrina Fanin, Manager of Rights and Quality Assurance, represented Harbor Regional Center (HRC).

Spanish interpreters were present on all hearing days to provide translation services for Ms. Aguilar and Mother.

The matter was deemed submitted and the record closed on December 16, 2025.

ISSUE

Should HRC increase claimant's self-determination plan (SDP) budget to pay for eight hours per week of behavioral respite for claimant?

EVIDENCE

For HRC: Exhibits 1 through 14 and the testimony of Jimmy Silvestre.

For claimant: Exhibits A through D and the testimony of Mother.

FACTUAL FINDINGS

Background

1. The Department of Developmental Services (DDS) administers the Lanterman Developmental Disabilities Services Act (the Lanterman Act) (Welf. & Inst. Code, §4500 et seq.) (All other statutory citations are to the Welfare and Institutions Code unless otherwise designated.)

2. HRC is one of multiple nonprofit regional centers established by the Lanterman Act to evaluate potentially developmentally disabled individuals, and, if

they qualify for services under the Act, develop individually tailored plans for their care, and help find sources of services, subject to the strictures of the Lanterman Act and its regulations. (See *Shalgoun v. North Los Angeles County Regional Center, Inc.* (2024) 99 Cal.App.5th 929, 937.) Individuals qualified to receive regional center supports are referred to as consumers. Services and supports provided to regional center consumers are determined through the Individual Program Plan (IPP) process. During this process, the specific needs and preferences of the consumer are considered in the context of identifying and implementing appropriate and cost-effective services.

3. Claimant is a 15-year old boy who is eligible for regional center services due to a diagnosis of intellectual disability. Claimant is in generally good health but he exhibits serious behavioral issues and delays in his educational development.

4. Mother is claimant's primary care provider and is also one of his In-Home Supportive Services (IHSS) caretakers. Claimant's sister is also an IHSS caretaker for Claimant.

Self-Determination Program

5. Claimant receives his services through SDP. SDP is an alternative to the traditional manner regional centers deliver services to their consumers. Under SDP, participant consumers may select and direct services and supports through "person-centered" planning. Though designed to be more flexible and customized than the traditional service delivery system, applicable law still requires SDP to be administered pursuant to the same legal requirements applicable to the traditional service delivery system.

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6. Claimant currently receives 40 hours per month of respite care, five hours per week of afterschool care, and 40 hours per month of personal assistance for community integration. In addition, claimant receives 224 hours of In-Home Support Services (IHSS). Mother and claimant's older sister are claimant's IHSS providers.

7. HRC's Respite Care Policy defines respite as "intermittent relief or rest from the additional demands that may be placed on a family caring for a son or daughter with a disability." The policy goes on to note that respite care is usually provided in the consumer's home or a licensed setting and is not intended to replace the care and supervision generally provided by the families of minors. (Exh. 9, p. 38.)

Claimant's Request for Behavioral Respite

8. In January 2025, Mother requested funding for respite and further requested that the respite be funded at the higher rate reserved for "behavioral respite." The parties agree the term "behavioral respite" is not defined by the Lanterman Act or its regulations but is understood to mean more focused, intense type of supervision provided by trained and experienced caretakers. Due to the additional expertise and effort required to provide this type of caretaking, behavioral respite is compensated at a higher rate than standard respite care.

9. Throughout her communications with HRC and during her testimony at the hearing, Mother contended that claimant's increasingly difficult to control behaviors mean that he can only be left with a highly trained caretaker. Moreover, Mother maintained that, outside the hours currently covered by HRC services or IHSS provided by claimant's sister, she is claimant's sole caretaker. Even with all the services currently being provided, there is no one to supervise and care for claimant on Saturdays except Mother. Because claimant is prone to eloping, hiding, and failing to

heed instructions, when Mother does care for him, she keeps him at home. Mother stated her health does not allow her, for instance, to run after claimant or look for him when he disappears while they are out. She believes he should be cared for in settings other than the home, and that can only happen if claimant's caretaker is someone healthy and alert enough to keep up with and control claimant.

10. Claimant's parents repeated their request for behavioral respite at their last IPP meeting, held on April 15, 2025. The IPP summarizes the interaction between HRC staff and claimant's parents on this subject as follows:

The family has expressed that 40 hours of community integration is not sufficient to ensuring [claimant's] safety.

Parent expressed that behavior respite is needed due to [claimant's] challenges with transition, limited safety awareness and the need for 24/7 supervision. Parent shared that the need is for [claimant] to have supervision while he is out in the community, visiting family/friends and participating in activities. We discussed the difference between personal assistance which [claimant] may need in the community and respite services as well as completed a respite assessment. Additionally, [claimant] receives IHSS protective supervision. [HR] agreed to fund for additional 20 hours per month of person assistance interim of receiving behavioral reports to review and assess the need. At this time, family reserves the right to not share any documentation.

(Exh. 4, p. A21.)

11. During the hearing, Mr. Silvestre testified and stated that HRC denied claimant's request for additional respite hours in part because the family refused to provide information HRC requested, including reports regarding claimant's behavior during his ABA sessions.

12. During the hearing, Mother provided a report from claimant's ABA provider, Behavior and Education Inc., dated December 26, 2024, which was the information sought by HRC during the 2025 IPP process. The report noted claimant receives seven hours per week of ABA services. The report reflects that claimant exhibits some strengths and met goals including increasing the times he complies timely with known instructions, avoiding repeatedly saying "why" when asked to undertake tasks he does not want to do, and expanding his vocabulary and engaging in conversation. According to the report, claimant continued to demonstrate behavioral deficits such as being unable to wait his turn when he is with peers, eloping, and struggling with daily living tasks such as bathing and grooming himself. (See Exh. A, pp. Z31-Z56.)

13. Mother also introduced a psychoeducational draft report prepared by claimant's school district dated February 6, 2024. The report writers found claimant continues to meet the criteria for intellectual disability and the eligibility criteria for special education. (Exh. A, pp. Z58-Z90.)

14. In March 2025, personnel from claimant's school prepared a "behavioral emergency report" as required by law when an incident at school results in serious property damage or when a student has engaged in violent behavior. The report states that claimant threw markers at a staff member and then punched the staff member twice in the back of the head. (Exh. 1, pp. Z98-Z99.)

15. In an undated letter from Ashley Cunill, claimant's tutor, Ms. Cunill stated claimant's tutoring sessions have been disrupted by his behavior including eloping, refusing to perform the assignments she gave him, and physically assaulting her.

LEGAL CONCLUSIONS

General Legal Provisions

1. The Legislature enacted the Lanterman Act to provide services and supports sufficiently complete to meet the needs of each person with developmental disabilities, regardless of age or degree of handicap, and at each stage of life.
2. Section 4512, subdivision (b) defines "services and supports" 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 independent, productive, normal lives.
3. The party asserting a claim generally has the burden of proof in administrative proceedings. (See, e.g., *Hughes v. Bd. Of Architectural Examiners* (1998) 17 Cal.4th 763, 789, fn. 9.) The standard of proof in this matter is a preponderance of the evidence because no other law or statute, including the Lanterman Act, requires otherwise. (Evid. Code, § 115.) A preponderance of the evidence requires the trier of

fact to determine that the existence of a fact is more probable than its nonexistence.

(*Katie V. v. Superior Court* (2005) 130 Cal.App.4th 586, 594.)

4. In this case, claimant is asserting a claim, requesting new services, i.e., additional hours of respite care at the behavioral respite level. Therefore, claimant has the burden of proving by a preponderance of evidence he is entitled to the service he seeks.

5. As required, claimant attempted to secure the additional services through the 2025 IPP process; however, because claimant's parents refused to provide all the available information, HRC personnel conclude they did not have sufficient information to grant the request.

6. Claimant's family's failure to cooperate with HRC during the IPP process is a serious transgression of the family's responsibilities. Under the Lanterman Act, an individual or the persons acting on the individual's behalf who are seeking benefits from a regional center must cooperate with the planning process. (See § 4646.2, subd. (a)(1)[needs assessments require information from the family].) A failure to cooperate may negate the authority to compel the regional center to fund services and supports.

7. Nonetheless, during the hearing, Mother demonstrated claimant's extreme misbehavior and clear need for experienced, capable caretakers to supervise him every day. Mother cannot do this by herself. She has demonstrated that additional behavioral respite on Saturdays is needed at least until the next IPP meeting is held, and both claimant's family's cooperation and claimant's behavioral challenges or improvement as measured by the assessment requested by HRC can be evaluated. Under these circumstances, claimant is eligible for eight hours per week of behavioral respite.

ORDER

Claimant's appeal is granted. HRC will increase claimant's SDP budget to fund eight hours per week of behavioral respite.

DATE:

DEENA R. GHALY

Administrative Law Judge

Office of Administrative Hearings

BEFORE THE
DEPARTMENT OF DEVELOPMENTAL SERVICES
STATE OF CALIFORNIA

In the Matter of:

Claimant

OAH Case No. 2025020893

vs.

DECISION BY THE DIRECTOR

Harbor Regional Center,

Respondent.

ORDER OF DECISION

On December 26, 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, the ALJ's proposed decision is ADOPTED but MODIFIED as follows:

1. Harbor Regional Center (HRC) shall grant claimant's request to increase his Self Determination Budget (SDP) to fund eight hours per week of behavioral respite services until April 15, 2026.
2. Both parties are expected to cooperate with each other in good faith during the Individual Program Plan (IPP) process. This includes, but not limited to, claimant providing any necessary information and documents to HRC to evaluate claimant's ongoing need for behavioral respite services and to determine the appropriate number and extent of services and supports claimant should receive pursuant to his IPP.
3. Page 8, paragraph 6 is modified to remove reference to "(see § 4646.2, subd. (a)(1) [needs assessments require information from the family].) and instead state (See § 4646.5, subdivision (a)(1) [needs assessments require information from the family] [emphasis added])

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 4712.5, subdivision (a)(1), 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. Regardless of whether an SDP participant intends to purchase services

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 January 20, 2026.

Original signed by

Katie Hornberger, Deputy Director
Community Assistance and Resolutions Division (CARD)