

**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. CS0022885

OAH No. 2025021016

DECISION

Taylor Steinbacher, Administrative Law Judge, Office of Administrative Hearings, State of California, heard this matter at the South Central Los Angeles Regional Center (SCLARC) on March 17, 2025.

Tami Summerville, Fair Hearings Manager, appeared and represented SCLARC.

Claimant's Authorized Representative, Karina Zuniga-Lopez, appeared and represented Claimant, who was not present. Claimant's Mother (Mother) was also present throughout the hearing. Names are omitted to protect the privacy of Claimant

and his family. Both Mother and Karina Zuniga-Lopez were assisted by a Spanish-language interpreter during the hearing.

Oral and documentary evidence was received. The record was closed, and the matter was submitted for decision on March 17, 2025.

ISSUE

Should the regional center increase the number of in-home respite hours it funds for Claimant from 46 hours per month to 60 hours per month?

EVIDENCE RELIED UPON

Documents: SCLARC Exhibits 1-8, Claimant's Exhibit A.

Witnesses for SCLARC: (1) Yvette Frausto; (2) Kathy Garcia.

Witnesses for Claimant: (1) Mother; (2) Karina Zuniga-Lopez.

FACTUAL FINDINGS

Parties and Jurisdiction

1. Claimant is an unconserved, 19-year-old man who lives with Mother and his older brother (Brother) in the catchment area served by SCLARC.

2. SCLARC is a regional center designated by the Department of Developmental Services (DDS) to provide funding for services and supports to persons

with developmental disabilities under the Lanterman Act. (Welf. & Inst. Code, § 4500 et seq.)

3. Both Claimant and Brother receive services and supports from SCLARC. These services and supports include funding for in-home respite care. Currently, SCLARC funds 46 hours per month of in-home respite care for Claimant, and another 46 hours per month for Brother.

4. In October 2024, Mother requested to increase the number of in-home respite care hours funded by SCLARC and allocated to Claimant from 46 hours per month to 60 hours per month. On November 15, 2024, SCLARC sent Claimant a Notice of Action denying the request. (Ex. 1, pp. A10–A16.) On December 9, 2024, Mother filed a fair hearing request about the denial. (*Id.*, pp. A6–A9.) This hearing ensued.

SCLARC's Evidence

SCLARC's FUNDING STANDARDS FOR RESPITE SERVICES

5. SCLARC's Funding Standards for Respite Services (Respite Policy), which was approved by DDS on October 18, 2010, defines "respite services" as "intermittent or regularly scheduled non-medical care and supervision of the developmentally disabled minor or adult." (Ex. 3, p. A43.) The 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." (*Ibid.*)

6. The amount of respite services given to a regional center consumer depends on the consumer's needs and the needs of their caregivers. The available levels of respite services are as follows: Level A (up to 24 hours per month); Level B (up to 30 hours per month); Level C (up to 36 hours per month); Level D (up to 46 hours

per month); and Level E (over 46 hours per month). (Ex. 8.) SCLARC determines the level of service necessary by assessing the consumer's medical needs, behaviors, self-care abilities, caregiver's condition, and overall family stress. A consumer must meet the criteria associated with at least three of these areas at each lettered level to be eligible for that amount of respite services. (*Ibid.*) To receive respite care at Level E (i.e., over 46 hours per month) there must be evidence of at least three of the following: (1) Claimant is medically fragile or needs care on an hourly basis (a nursing assessment is required to show this); (2) Claimant's behaviors are severe or require continuous supervision (a behavioral assessment is required to show this); (3) Claimant is non-ambulatory or requires hands-on assistance to complete self-care or independent living tasks; (4) Claimant's caregiver has a life-threatening medical condition or experiences serious nightly sleep disruption to provide care; and (5) severity of family stress or a combination of other factors necessitates additional respite hours. (*Ibid.*)

YVETTE FRAUSTO

7. Yvette Frausto is a service coordinator for SCLARC who provides case management services to regional center consumers. Frausto is the service coordinator for Claimant and Brother, and she is familiar with each consumer's background and care needs.

8. In July 2024, Mother requested that SCLARC approve an increase in Claimant's respite services from 30 hours to 46 hours per month. The reasons Mother gave to Frausto for the request were that she had two children who were regional center clients, she needed to attend personal medical appointments, and she wanted to prepare for the United States citizenship exam. Even though Claimant's situation did not meet at least three of the Level D criteria to receive up to 46 hours of respite

services per month, Frausto sought and received an exception for Claimant to receive that level of service. This was documented on a SCLARC Respite Authorization Worksheet. (Ex. 8.) The worksheet noted that the factors supporting the request were that Mother is a single parent who works part-time and has two adult children with developmental disabilities, and that there is “family disruption” and stress due to Claimant and Brother’s developmental disabilities. (*Id.*, pp. A84, A86–A87.)

9. In October 2024, Mother again requested that SCLARC approve an increase to Claimant’s respite services, this time from 46 hours per month to 60 hours per month. According to Frausto, Mother gave the same reasons for this request as she had for her earlier request and provided no information about a change in Claimant’s or her circumstances. Considering the lack of change in circumstances justifying an increase in respite services, and given Claimant’s needs at the time, SCLARC denied Mother’s request.

10. According to Frausto, Claimant is “high functioning,” as he has graduated from high school and currently attends college, he can tend to his self-care needs independently, engages in recreational activities such as going to the movies and restaurants with friends, and had learned to drive and navigate streets with no concerns for his safety. (See Ex. 2, pp. A32–A33; see also Ex. A.) Claimant is not “medically fragile,” and Mother reported claimant has no challenging behaviors. (Ex. 2, p. A33.) On the contrary, Claimant is now seeking to become an in-home respite care provider for Brother with Mother’s support and approval.

11. Although SCLARC denied Mother’s request for additional respite service hours, SCLARC offered to fund 100 personal assistance (PA) hours for Claimant, which Mother accepted.

KATHY GARCIA

12. Kathy Garcia is a program manager for SCLARC who supervises a group of service coordinators, including Frausto. Garcia testified Mother's request for additional respite service hours was denied because SCLARC had already made an exception for Claimant to receive 46 hours per month of respite and that there was no justification provided to increase those services. SCLARC had already considered Claimant's needs and Mother's circumstances as a single-parent caregiver to two regional center consumers in making the initial exception to provide 46 hours of respite services per month. Mother receives 92 hours per month in total respite services for Claimant and Brother. In Garcia's opinion, this amount of respite care for Mother is sufficient to meet her sons' needs and to comply with SCLARC policies. Moreover, Garcia believes that the PA hours offered instead of respite services would help Claimant meet the goals in his Individual Program Plan (IPP) for additional community integration.

13. Aside from additional PA hours, SCLARC also offered to provide Claimant with independent living services (Ex. 6) and coordinated family services, which would have helped the family apply for resources from other agencies. However, Mother denied these other services.

Claimant's Evidence

MOTHER'S TESTIMONY

14. According to Mother, when Claimant first began receiving services at the regional center at around age 10, she would receive 24 hours per month of respite, which was later increased to 30 hours per month.

15. In 2019, Claimant was diagnosed with an issue with his lumbar spine that caused him extreme pain and resulted in frequent medical visits. During that time, Mother could not sleep well at night as she was caring for Claimant and because Brother has insomnia. As of today, however, Claimant's back pain is managed well with medication.

16. Mother uses respite service hours to run errands, attend personal medical appointments, or attend appointments regarding her sons' schooling. Mother feels rushed when running these errands because she needs to pay for another adult to supervise Claimant and Brother. Mother would like additional respite service hours so that she does not feel rushed when she is out of the house, or so that she can go to the grocery store or pharmacy more often without needing to pay someone to supervise Claimant and Brother. In Mother's opinion, she needs 60 hours of respite services per month, per child, to give her adequate time to accomplish these tasks.

KARINA LOPEZ-ZUNIGA

17. Karina Lopez-Zuniga has known Claimant and Mother for several years. Lopez-Zuniga knows Claimant's interests, his diagnosis, and the services he receives from SCLARC. Claimant requires redirections and reminders throughout the day to perform tasks. According to Lopez-Zuniga, additional PA hours have not helped Claimant because he can use at most 25 hours per week and the hours must be used for specific activities. Lopez-Zuniga claimed this lack of flexibility has made it difficult to use all the PA hours the regional center approved for Claimant.

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LEGAL CONCLUSIONS

1. The Lanterman Act governs this case. (Welf. & Inst. Code, § 4500 et seq.; all further undesignated statutory references are to the Welfare and Institutions Code.) The Legislature enacted the Lanterman Act to provide a pattern of facilities and services 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. The purpose of the statutory scheme is twofold: To prevent or minimize the institutionalization of developmentally disabled persons and their dislocation from family and community, and to enable them to approximate the pattern of everyday living of nondisabled persons of the same age and to lead more independent and productive lives in the community. (*Assn. for Retarded Citizens v. Dept. of Developmental Services* (1985) 38 Cal.3d 384, 388.)

2. DDS is the state agency charged with implementing the Lanterman Act; DDS, in turn, contracts with private, non-profit community agencies called "regional centers" to provide developmentally disabled persons with access to the services and supports best suited to them throughout their lifetime. (§§ 4416, 4620.)

3. Under the Lanterman Act, an administrative proceeding, also known as a "fair hearing," is available to determine the rights and obligations of the parties, including regional center decisions with which a claimant disagrees. (§§ 4700–4717.) Claimant timely requested a fair hearing, and jurisdiction for this case was established. (Factual Findings 1–4.)

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Standard and Burden of Proof

4. The party proposing a change in existing services or asserting a new claim holds the burden of proof in administrative proceedings. (See, e.g., *In re Conservatorship of Hume* (2006) 140 Cal.App.4th 1385, 1388 [the law has “a built-in bias in favor of the status quo,” and the party seeking to change the status quo has the burden “to present evidence sufficient to overcome the state of affairs that would exist if the court did nothing”].) The standard of proof for these proceedings is the preponderance of the evidence because no other law or statute, including the Lanterman Act, provides 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.)

5. Here, Claimant bears the burden of proving by a preponderance of the evidence that his request to increase the number of monthly respite hours he receives is justified.

In-Home Respite Care

6. A regional center may authorize “respite” services for caretakers in an IPP. (§§ 4512, subd. (b) [including “respite” as a service or support available in an IPP], 4685, subd. (c)(1) [noting that “respite for parents” may be provided as a service or support to assist families caring for children at home if that is a preferred objective in an IPP].) “In-home respite services” are defined as “intermittent or regularly scheduled temporary nonmedical care and supervision provided in a client’s own home, for a regional center client who resides with a family member.” (§ 4690.2, subd. (a).) Section 4690.2, subdivision (a), further states respite 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 in maintaining the client at home; (3) relieve family members from the constantly demanding responsibility of caring for the clients; and (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 that would ordinarily be performed by family members. (See also Cal. Code Regs. tit. 17 (CCR), § 54302, subd. (a)(38); CCR § 56776, subd. (a)(8).) Family members may provide respite services. (§ 4690.5.)

Analysis

7. Claimant did not meet his burden to show by a preponderance of the evidence he requires an increase in respite services. In granting an exception to the Respite Policy to increase his respite services to the current level of 46 hours per month, SCLARC considered that Mother is a single mother who cares for two regional center clients and that she has medical issues for which she needs to attend appointments. (Factual Findings 8, 12, 16.) But nothing about Claimant or Mother’s situation has changed since then that justifies an increase in services to 60 hours per month.

8. The Respite Policy sets forth the criteria at Level E for a consumer to receive more than 46 hours per month of respite services. (Factual Findings 5–6.) Claimant does not meet at least three of the five criteria necessary at Level E because: (1) his back pain is managed well by medication and he does not need hourly medical care, (2) he does not exhibit severe challenging behaviors, and (3) he is ambulatory and does not require hands-on assistance to complete independent living tasks. (Factual Findings 10, 12, 15.) And although SCLARC can make exceptions to the Respite Policy (Factual Finding 8), the evidence presented does not suggest that

Claimant's living situation or care requires respite services beyond what SCLARC already provides. Mother's desire to not feel rushed when running errands or attending appointments also does not justify funding additional respite services hours for Claimant on this record.

ORDER

Claimant's appeal is denied.

DATE:

TAYLOR STEINBACHER

Administrative Law Judge

Office of Administrative Hearings

NOTICE

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