

**BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA**

In the Matter of:

CLAIMANT

and

REGIONAL CENTER OF THE EAST BAY, Service Agency.

DDS No. CS0025626

OAH No. 2025040170

DECISION

Administrative Law Judge Holly M. Baldwin, State of California, Office of Administrative Hearings, heard this matter on June 25 and July 16, 2025, in San Leandro, California.

Claimant represented herself at hearing.

Ronke Sodipo, Director of Client Services, represented Regional Center of the East Bay, the service agency.

The record closed and the matter was submitted for decision on July 16, 2025.

ISSUE

Did the Regional Center of the East Bay (RCEB) improperly deny claimant's request for funding of: (1) service dog; (2) nutritionist or medically prescribed meals ("nutritional supplies"); (3) transportation; (4) in-home respite care; (5) home health supports and/or homemaker; and (6) genetic testing?

FACTUAL FINDINGS

1. Claimant is a 41-year-old woman who became a consumer of regional center services in January 2023 based on a diagnosis of autism spectrum disorder (ASD or autism). Claimant lives independently in an apartment in Berkeley.

2. Claimant filed an appeal request on April 1, 2025, stating generally that she had been denied services for which she should be eligible, but that no denial letter had been issued. RCEB issued a notice of action dated April 9, 2025, and a denial letter dated April 22, 2025, stating that RCEB was unable to meet claimant's requests for the six items listed in the Issue statement above. This hearing followed.

Evidence Submitted at Hearing

3. Six RCEB staff members testified at hearing about claimant's case and RCEB policies and procedures: Christine Hanson (Associate Director of Adult Services); Daniel Bermeo (Case Manager Supervisor); Lucy Rivello (Director of Intake and Clinical Services); Janet Holmes (Intake Assessment Counselor); Dana Palius (claimant's former Case Manager); and Lara Pineda (current Case Manager). Claimant and three members of claimant's support team also testified at hearing: Amalya King (Independent Living Skills/ILS instructor); Megan Gonzalez (ILS instructor); and Jane Jones (In-Home

Supportive Services/IHSS worker). Claimant also submitted a written document containing her arguments in support of her appeal, and RCEB provided a position statement. In addition, each party submitted a number of other documents. All of these items have been considered.

Background Information

4. Claimant lived abroad in Spain for 15 years, from 2007 to 2022. She moved back to the United States in 2022 and sought regional center services. At that time, claimant was living temporarily in her parents' home. Claimant now lives independently, without a natural support system. Claimant's family is not involved in her support, daily living, or Individual Program Plan (IPP), at claimant's request.

5. Claimant was diagnosed with autism as an adult in June 2022, by clinical psychologist Franziska Everts of San Carlos Clinical Hospital in Madrid, Spain, where claimant was treated from 2020 to 2022. (An English translation of the clinical report was submitted at hearing.) In addition to the ASD diagnosis and other diagnoses, the clinical report by Everts includes a diagnosis of "eating avoidance/restriction disorder associated with and secondary to ASD" and the DSM-5 (Diagnostic and Statistical Manual of Mental Disorders, Fifth Edition) code for Avoidant/Restrictive Food Intake Disorder (ARFID). The report also makes reference to claimant's pending evaluation for "possible epileptic crisis – epileptoid with vasovagal syncope" which claimant stated she had since childhood.

6. Claimant also provided a medical record from Said Ibrahim, M.D., at Bridge Medical Neurology Fremont, listing multiple diagnoses, including "autistic disorder," "epilepsy, unspecified, not intractable, without status epilepticus," and "syncope and collapse."

7. Claimant's list of ongoing health conditions from her Kaiser Permanente medical record includes, among other things, ASD and epilepsy. Claimant's treating psychologist, Rebecca L. Gonzalez, Psy.D., has documented claimant's diagnoses of ASD, Attention-Deficit/Hyperactivity Disorder (ADHD), and Posttraumatic Stress Disorder (PTSD).

8. Claimant stated she has also recently been diagnosed with a connective tissue/hypermobility disorder called Ehlers Danlos syndrome.

9. Among other information, the RCEB intake social assessment and eligibility determination worksheet documents claimant's report that she has three to four seizures per month, that she has had the seizure disorder since childhood, and that she takes medication for it.

10. RCEB determined that claimant was eligible for regional center services as of January 24, 2023, based on a diagnosis of autism and significant functional limitations in the areas of learning, self-direction, capacity for independent living, and economic self-sufficiency.

11. Claimant is concerned that her RCEB eligibility documents do not reflect epilepsy as an eligible condition for regional center services, in addition to autism. From the testimony at hearing, it appears that perhaps not all of claimant's medical reports from Spain were translated to English in the RCEB intake eligibility assessment process. It also appears that claimant has more recently been diagnosed with epilepsy by a local neurologist, and RCEB clinical staff may not have reviewed those records. Rivello confirmed at hearing that claimant's eligibility determination could potentially be updated to include epilepsy as an additional basis for eligibility.

If claimant wants to pursue this, she should contact the RCEB intake department and provide whatever medical documentation she has regarding her epilepsy. Then RCEB clinical staff should review that information to determine whether claimant meets the eligibility criteria based on epilepsy (in addition to autism).

12. Claimant also raised concerns about errors in the ICD (International Classification of Diseases) diagnostic codes listed on the RCEB eligibility determination worksheet. For at least one diagnosis, it appears that the issue may be that the ICD and DSM-5 diagnostic codes do not exactly correspond. If claimant wants to pursue corrections, she should contact the RCEB intake department, and provide documents for the clinical staff to review.

13. Claimant also stated she has significant functional limitations in self-care, in addition to the four areas of life activity listed in Factual Finding 10. Rivello confirmed that the areas of life activity listed on the intake eligibility form do not limit what services claimant can receive from RCEB. The IPP is the "living document" that reflects a regional center consumer's current needs and the services RCEB will provide.

14. A letter from Holmes to claimant dated February 3, 2023, informed claimant of her RCEB eligibility determination and also stated the "assessment team recommends that you follow up on" a list of seven items, including: "genetic testing with CGH microarray and for Fragile X syndrome."

Communications Between RCEB and Claimant

15. Claimant has been frustrated with the IPP planning process, which she does not feel has been adequately and clearly explained to her. She has not felt that her IPP and Addendums reflect her own language, and they have contained inaccurate information that has not been corrected. Claimant repeatedly asked for a hard copy of

the IPP and all Addendums, which had not yet been provided as of the first day of hearing. Claimant also received mail from the regional center asking her to sign IPP signature pages without actually also enclosing copies of the underlying IPP.

16. Claimant has repeatedly raised concerns about the transparency and consistency of communications to her from RCEB. She has sought explanations of her rights and of RCEB services and processes in writing, and in plain English. Claimant and her ILS instructors expressed a desire for more educational materials such as brochures or handouts that are targeted at regional center clients who live independently, and that explain how to navigate the IPP process and communications with case managers.

17. Claimant has also been frustrated with how long it has taken to get responses to many of her emails and with how long the IPP, denial letter, and reimbursement processes have taken.

18. At hearing, RCEB staff members explained that the IPP process includes an IPP meeting every three years, and an annual review meeting in the consumer's birth month. Additional meetings can occur at any time, and typically occur on a quarterly basis for consumers who live independently. When new or changed needs for services are identified by the IPP planning team, an addendum is prepared. The addendum typically only lists the changed items, and does not repeat all the information contained in the underlying IPP.

IPP and IPP Addendums, and Services Approved for Claimant by RCEB

19. Claimant's initial IPP is dated May 25, 2023, and was developed when Palius was claimant's case manager. IPP Addendums have subsequently been prepared by Pineda, claimant's current case manager, including addendums dated October 9, 2024; March 10, 2025; and April 14, 2025.

As amended, claimant's IPP currently includes three outcomes, relating to claimant living independently, her vocational goals, and engaging in social and recreational activities. The IPP states (among other things) that claimant has challenges with communication, and that she needs assistance with cleaning, housing, socialization, cooking, and money management.

RCEB has agreed to fund the following items on an ongoing basis:

- 40 hours per month of Independent Living Skills (ILS) services provided by Action Independence Motivation Support (AIMS);¹
- reimbursement up to \$40 per month for a YMCA membership as social recreation activities; and
- reimbursement for transportation to and from the YMCA, up to 38 one-way trips per month, at a rate of up to \$7 per one-way trip (\$266 per month).

In its discussion of transportation to social recreation, the April 2025 Addendum noted that claimant has been purchasing East Bay Paratransit tickets to get to and from the YMCA, because she cannot drive due to her seizure disorder; that she has been determined to be below the federal poverty level; and that transportation costs are a financial burden to her.

The April 2025 Addendum also noted that claimant recently fell due to a seizure and needs an occlusal mouth guard to help hold her teeth in place (not covered by insurance); and that claimant would prefer to wear contact lenses due to the risk of her

¹ RCEB also funded a one-time ILS assessment of claimant by AIMS.

glasses shattering in the event of another fall (only partially covered by insurance). RCEB agreed to fund one-time reimbursements for claimant's purchases of contact lenses, glasses, and an occlusal mouth guard.

20. Claimant is transitioning to the Self Determination Program (SDP), but that process has not yet been completed. This appeal does not involve the SDP.

Claimant's Current ILS and IHSS Services

21. Claimant receives 40 hours of ILS services per month, funded by RCEB and provided by AIMS. Gonzalez and King discussed their work with claimant. Gonzalez described ILS as time-limited, goal-oriented services to teach a person with developmental disability skills to live their life as independently as possible in the community. This can include skills such as budgeting and meal planning, and teaching the client how to navigate various benefits systems. The client directs the ILS workers and decides what the client needs help working on each day.

22. Gonzalez briefly discussed the difference between ILS services and Supported Living Services (SLS), which AIMS also provides. For SLS, workers come in regularly and plan to do things for the client. For ILS, the client determines the plan of what they want help with that day. Gonzalez believes that ILS is a better fit for claimant than SLS, noting that most of AIMS' clients for SLS are conserved.

23. Claimant has an ISP (Independent Services Plan) for her ILS services. King stated that claimant's ISP includes objectives for: (1) learning how to keep her home organized and clean; (2) assisting with advocacy with generic resources; (3) accessing the community safely; (4) support with medical paperwork and calls; (5) improving executive functioning skills to better manage daily life; and (6) budgeting. Claimant's ILS workers also helped her with a business plan for the Department of Rehabilitation.

Claimant, Gonzalez, and King stated that her ILS workers have been delayed in working on some of the objectives in claimant's ISP because they have had to spend so much time helping claimant navigate her IPP process with the regional center and helping claimant with her communications with RCEB case managers.

24. Claimant receives 90 hours of IHSS (In-Home Supportive Services) per month, through the county. IHSS is considered a generic resource, and provides a monthly allotment of hours for a paid worker to assist with things like personal care and household tasks. Jones is claimant's only IHSS worker, and she helps claimant with tasks such as cooking, cleaning, and taking her to appointments. Claimant often needs help on the weekends, but Jones only works during the week. Claimant stated she uses all her allotted IHSS hours with Jones.

RCEB Positions

25. RCEB's planning team agrees that claimant has specialized care needs beyond the needs of a typical adult of her age, including assistance with independent living. RCEB-funded services currently in place for claimant include ILS services, social recreation activity reimbursement, and transportation reimbursement related to social recreation activities.

26. As a general matter, and specifically for several items discussed below, RCEB noted that under the Lanterman Developmental Disabilities Services Act (Lanterman Act, found at Welfare and Institutions Code² section 4500 and following sections), services and supports funded by a regional center must address needs related to the consumer's developmental disability. Some of RCEB's concerns related

² All statute citations in this decision are to the Welfare and Institutions Code.

to whether they had received sufficient documentation or explanation of how claimant's requested items specifically were related to her developmental disability of autism. It was not established at hearing whether adding epilepsy as an additional basis for claimant's regional center eligibility would change RCEB's position on funding any of the items requested by claimant.

27. RCEB is the payor of last resort, and is not permitted by law to fund services and supports if there are "generic resources" available to fund the items, such as health insurance or other public agencies. Some of RCEB's concerns about claimant's requests are related to whether claimant has shown that she has pursued and been denied funding from other sources, such as her health insurance.

28. Regional centers also must comply with policies for purchase of services (often referred to as POS) that are established by the regional center's board of directors. RCEB provided its Transportation POS policy, but not other POS policies. For consumers in the traditional service model, the regional center must fund services and supports through approved vendors. Hanson acknowledged that in some circumstances, the regional center can use a "courtesy vendorization" process, if there is no vendor approved by RCEB for a certain service or support, but there is such a vendor approved by another regional center. There is also an "exceptions committee," which has authority to approve requests that are outside the regional center's typical POS process (as happened with reimbursements to claimant for certain items).

Service Dog

29. Claimant stated she first requested a service dog in her annual review meeting in October 2024 but a denial letter was not issued until April 2025.

30. RCEB's denial letter cited Lanterman Act sections 4501 and 4512, subdivision (b), stating that services and supports funded by the regional center must address needs related to claimant's developmental disability and "RCEB has assessed that a service dog does not meet those needs."

31. Claimant disputed whether RCEB had conducted an "assessment" of whether a service animal would meet needs related to her developmental disability. Claimant contends that a service dog is considered necessary medical equipment or assistive/adaptive technology for a person with a disability under the Americans with Disabilities Act.

32. Claimant's treating psychologist Dr. Gonzalez wrote a letter for claimant dated May 6, 2025, stating: "Per your request and authorization, I am writing this letter indicating that you may benefit from a service animal." Dr. Gonzalez's letter did not provide any further information about which of claimant's medical or psychiatric conditions would be helped by the service animal, and how a service animal would address claimant's needs.

33. According to Bermeo, a service dog was discussed at the annual meeting, and he outlined the process for seeking generic resources, and gave claimant a list of community providers. Bermeo explained at hearing that in order for RCEB to fund a service animal, RCEB needs (1) more information on how the service animal is intended to address a medical need related to claimant's developmental disability, and (2) a denial letter from claimant's health insurance to show that she is not able to obtain the service animal through generic resources. Bermeo stated that documentation from claimant's medical provider should explain claimant's medical need based on what condition, and should outline how the service animal would support her. The letter

from Dr. Gonzalez did not explain how a service animal would address claimant's needs.

34. Claimant stated that she was not told or did not initially understand that she needed a doctor's note and Bermeo did not tell her such detailed information was needed. She stated she would pursue a denial letter from her health insurance provider.

Nutritionist or Medically Prescribed Meals ("Nutritional Supplies")

35. Claimant has specialized needs relating to nutrition, which she stated are related to her diagnosis of ARFID secondary to autism and to food allergies. Claimant categorized her requests as being for a nutritionist or medically prescribed meals, while RCEB labeled the request as being for "nutritional supplies." It also appears that claimant may be seeking testing for food allergies recommended by her doctor.

36. In an email from claimant on October 1, 2024, she stated that her doctor recommended medically prescribed meals (low FODMAP/allergies/nondairy/gluten free) due to her chronic GERD and gastroparesis. According to claimant, at her annual meeting in October 2024, her nutrition-related requests were denied because RCEB does not have a vendor.

37. Claimant wrote an email to Pineda on March 10, 2025, in which she asked for a denial letter for items including "my request for help with medically necessary meals due to not having a vendor," which referred to and quoted from an email sent by claimant on February 10, 2025, that had not been answered:

"Nutritionist: Kaiser has some type of medically prescribed meals program and other health/nutrition specialties not

covered by insurance that *does cover* what I am in need of. Again, please tell me how to proceed with this. I first get the cost of the program, no? I then submit it to you for approval ... how? Please tell me how to proceed." I canceled the informational meeting because I never heard back from you.) According to what the regional center can fund, nutritional supplies are considered Durable Medical Equipment.

38. Pineda requested more information in an email on March 21, 2025, asking: "Nutritionist – Has your PCP [primary care provider] written a prescription for the nutritional supplies that you are asking about?"

39. On March 26, 2025, claimant responded:

Did you read how I had to cancel my appointment because you didn't get back to me in time? Kaiser has a paid meal service for medically prescribed meals he recommends for me. I need a denial letter from you. I can send you my email correspondence from him after my last appointment with him if you like.

40. RCEB's denial letter cited Lanterman Act section 4501, stating that the regional center "is prohibited by law from funding food items because food and nutrition needs are not specific to addressing the developmental disability."

41. At hearing, Bermeo explained that RCEB needed more information from claimant's physician as to how the requested items are medically necessary for a diagnosed condition, and needs documentation that claimant's insurance denied the

items. Rivello was asked whether more documentation about the ARFID diagnosis would help with claimant's request for nutritional services, and she said it was possible, and that clinical staff would review any such information and do a clinical assessment.

42. RCEB's position statement referenced an additional legal authority, stating that the Medicaid Waiver in the Federal Financial Participation statute prohibits regional centers from funding "room and board" and that food and nutritional items fall under "board." (Code Fed. Regs., tit. 42, § 441.310, subd. (a)(2).) That legal authority was not discussed further at hearing, and it is unclear to what extent it applies to regional center consumers such as claimant, who is part of the traditional service model.

Transportation

43. Claimant has specialized transportation needs. She cannot drive due to her epilepsy. She also stated that she cannot use public transit alone. Claimant has had problems with East Bay Paratransit being unreliable or difficult to schedule.

44. RCEB has agreed to fund transportation to and from social recreation at the YMCA (see Factual Finding 19), but not transportation to other activities. It was not clear at hearing for what other specific activities claimant is seeking transportation.

45. In an email on October 1, 2024, claimant asked for non-medical transportation/specialized transportation services because she cannot rely solely on paratransit.

46. Claimant provided a letter from her psychologist Dr. Gonzalez, dated February 11, 2025, documenting that she is diagnosed with permanent health conditions, including ASD, that require her to attend regular medical appointments,

and verifying that claimant attends up to one appointment per week or four appointments per month. Claimant provided a copy of her application for the Berkeley Rides for Seniors and the Disabled High Medical Needs Program, which provides eligible participants with additional taxi scrip and/or wheelchair van vouchers for transportation services to medical appointments. The evidence at hearing did not establish the status of claimant's request for this generic resource.

47. Claimant wrote an email on March 10, 2025, in which she asked for a denial letter for "my request for transportation besides going to YMCA (Increase Community Access, Specialized Transportation: unable to drive due to epilepsy)."

48. Pineda replied on March 21, 2025, stating that RCEB only funds transportation to and from day programs and potentially to and from work, school, and/or regional center funded social recreation activities based on assessed need and financial hardship.

49. Claimant followed up by email on March 26, 2025, stating:

OK if potentially from class, then my RCEB-funded Alegria Social Skills class would count, no? As I've been asking all along. If income/needs based —that's definitely me.

Assessed needs? I can't drive and I'm not allowed to take BART by myself due to epilepsy, that's why I need to use EBPT or be driven everywhere. Please send me a denial letter for the transportation services you cannot provide.

50. Claimant sent another email on May 12, 2025, following up on a meeting that day, stating:

I reiterated my struggles with transportation due to epilepsy preventing me from driving, using public transportation alone and the unreliable nature of EBPT (need to plan in advance, often late, slow, etc.) Daniel said we could look into an exception for Non Medical Transportation for work purposes, RCEB would need to be informed of work schedule, etc.

51. RCEB's denial letter stated it is "only able to fund transportation to and from day programs, work, social recreation based on assessed need and financial hardship. RCEB does not fund ride shares or any other type of transportation for running errands, going shopping, or community activities."

52. At hearing, RCEB provided its POS policy for Transportation. The policy states that RCEB will fund transportation for a consumer to access services that will meet the goals of the IPP, when the planning team has made the assessment that the consumer is not able to use public transportation, mobility training is not appropriate, and no other means of transportation is available. The policy states that the case manager, as part of the planning team, will assess the need and type of transportation necessary to meet the consumer's service needs. RCEB will fund the least expensive transportation modality that meets the consumer's needs, as set forth in the IPP. (§ 4648.35, subd. (b).)

53. Hanson and Bermeo discussed RCEB's transportation policy at hearing. Transportation is funded to meet the goals in a consumer's IPP, such as for claimant's social recreation activities at the YMCA. Typically transportation is funded for consumers to attend day programs, work, or social recreation activities. RCEB does not fund transportation to perform errands or other general community activities, because

those are things that anyone would need, and are not related to a developmental disability. Hanson confirmed that Tailored Day Services (TDS) is a type of day program for adult consumers for which RCEB could potentially fund transportation. Bermeo stated that claimant's planning team had discussed transportation in relation to TDS, although many TDS providers will come to the client. Claimant stated she has asked for TDS and been denied. Bermeo stated TDS can be funded for claimant but is not in place yet.

Respite Care

54. Claimant is seeking in-home respite care because she does not have enough IHSS and ILS hours to meet her needs for support while living independently. She noted her high support needs due to autism, ARFID, epilepsy, PTSD, and Ehlers Danlos syndrome. Claimant also stated that fatigue, mental health symptoms, and seizures can create emergent needs for unplanned assistance. Claimant noted that her ILS workers are often leaned upon for emotional, regulatory, and logistical support beyond their scheduled scope. Claimant notes that her ILS workers have been focused on helping her navigate the RCEB process rather than teaching her other skills.

55. Claimant seeks additional relief and backup support when her needs exceed the hours allotted for IHSS or ILS. If what she needs does not fall under the category of respite care, claimant stated it could be considered as homemaker services or home health support.

56. Claimant also pointed to Lanterman Act section 4651, subd. (b), stating that regional centers are encouraged to use innovative techniques and staffing arrangements. Claimant lives independently, but also has high support needs.

Claimant seeks further help understanding what else could be used if her IHSS and ILS hours are insufficient to meet her needs.

57. Claimant wrote an email on March 10, 2025, in which she asked for a denial letter for "my request for respite services (Respite Services In-Home, Out-of-Home Respite Services: when I asked about this at the Emergency Meeting in December 2024, Daniel said this doesn't pertain to me. According to what the regional center can fund, I *am* eligible. (ILS Services only meant to learn and improve home and community life skills and provided in the consumer's home, family home or residential facility.)"

58. Pineda responded by email on March 21, 2025, stating: "You do not qualify for respite as you live independently. This is only available if a client lives with family and the respite would be provided to whomever is the client's main caregiver."

59. Claimant followed up by email on March 26, 2025, stating:

My main caregiver is my IHSS worker who comes everyday. I often don't have enough hours for all the things we need to get through in a day and I've already asked my IHSS caseworker for more hours. From the DDS website: in-home respite services include "Providing appropriate care and supervision to protect that person's safety in the absence of a family member(s)." "Attending to basic self-help needs and other activities that would ordinarily be performed by the family member." So I need Homemaker service code 860.

60. RCEB's denial letter states that respite care is to provide intermittent relief for families from care and supervision of a family member with a developmental disability who resides in the home. "You've requested that your In Home Support Service worker receive respite from provision of your care, [but] that person is a paid provider and not a natural support person."

61. At hearing, Hanson and Bermeo explained that respite care is intended to provide a break from caregiving to family members of a regional center consumer who is living in the family home. It is not funded for people living independently in their own home. Claimant has paid workers to support her, and it is not the intent of the Lanterman Act to give respite care to them.

62. Claimant focused on the definition of respite care on the DDS website (drawn from Lanterman Act Section 4690.2, subdivision (a)), which says respite care includes appropriate care and supervision "in the absence of a family member," and emphasized that she lives alone and her family members are not natural supports.

63. Hanson and Bermeo stated that Supported Living Services (SLS) may help meet claimant's needs for support while living independently. SLS provides ongoing support to help with tasks such as house cleaning and shopping. It differs from ILS, which is training in learning new skills. A regional center consumer cannot receive both ILS and SLS services. However, Hanson and Bermeo explained that SLS has a broader scope and includes ILS-type training among its services.

Home Health Supports and/or Homemaker

64. Claimant seeks home health supports or homemaker services. She has high support needs due to autism, ARFID, epilepsy, PTSD, and Ehlers Danlos syndrome. Claimant stated she needs support with daily household tasks to maintain a clean,

safe, and functional living space; and needs help preparing medically necessary meals due to her autism, ARFID, and allergies. She explained that due to her ARFID and sensory sensitivities, she struggles with cooking and food preparation. Her executive dysfunction, depression, migraines, and fatigue and dizziness caused by her epilepsy affect her ability to maintain home cleanliness and organization. She also has concerns for risk of injury due to seizures or dizziness while doing cleaning, laundry, and handling hot food or heavy items. Claimant also needs help remembering to take her medications.

65. In an email on October 1, 2024, claimant requested, in relation to her IPP Outcome 1 (living independently), Home Health Supports and Housing Support Services.

66. Claimant wrote an email on March 10, 2025, in which she asked for a denial letter for "my request for Home Health Supports (when I asked about this at my Annual Meeting in October 2024, Daniel said this doesn't pertain to me. I do qualify for this and don't have enough daily IHSS hours or monthly ILS hours for help to cover.)"

67. Pineda requested more information in an email on March 21, 2025, asking: "Home Health Supports – what medically necessary support do you feel you need at home? How would home health address that need?"

68. Claimant replied on March 26, 2025, stating:

My main caregiver is my IHSS worker who comes everyday.
I often don't have enough hours for all the things we need
to get through in a day and I've already asked my IHSS
caseworker for more hours. From the DDS website,

"Providing appropriate care and supervision to protect that person's safety in the absence of a family member(s)."

"Attending to basic self-help needs and other activities that would ordinarily be performed by the family member." So I need Homemaker service code 860. [¶] Home Health Support: please send me a denial letter.

69. RCEB's denial letter stated: "Based on medical assessment, no requirement for home health nursing support has been identified."

70. Claimant asked what "medical assessment" RCEB was referring to. No such medical assessment has been performed by RCEB clinical staff.

71. At hearing, Hanson discussed the process for how claimant could obtain home health supports. If claimant received a denial from her health insurance, then she could pursue it with RCEB. A clinical staff person at RCEB (not the case manager) would conduct a nursing assessment to determine the medical necessity. If the assessment found it was needed, then an addendum to the IPP would be prepared, and the case manager would prepare a purchase of service to fund the service.

72. In response to claimant's statements that she has medical conditions and needs more help, Bermeo explained that RCEB needs to know more information. For a home health support like a nurse, RCEB needs documentation from a medical provider stating what is the medical need, and an insurance denial before RCEB could fund the support. If it is not specifically a need for medical assistance, SLS could be appropriate. SLS is to provide supports for people living in their own homes, and could include tasks like help with cleaning, meal preparation and cooking, hygiene, and daily household needs. Bermeo noted that while claimant could not receive both SLS and

ILS from the regional center funding, he stated that SLS covers everything in ILS plus more, and AIMS is a provider of SLS in addition to ILS.

Genetic Testing

73. Claimant has requested assistance with genetic testing. On March 10, 2025, claimant sent an email stating:

When I was first approved as a client of RCEB, my assessment counselor Janet Holmes: "Recommend genetic testing with CGH microarray and for Fragile X syndrome if not done." I've been slowly crossing things off my list of things to get done and am now ready. How do I proceed? Which genetic counselor does the RCEB works with for this service? Please advise.

74. On March 21, 2025, Pineda replied: "If you would like any kind of genetic testing done, you would have to check with your PCP and go through your medical insurance."

75. RCEB's denial letter cited Lanterman Act section 4501 and stated: "RCEB does not offer genetic testing services because it does not provide a service or support which addresses your developmental disability."

76. At hearing, claimant emphasized her reliance on the recommendation for genetic testing in the eligibility determination letter.

77. Hanson explained that the intake assessment team makes general recommendations, which may or may not be for items that are funded by the regional center. Rivello stated that typically RCEB's clinical staff recommend genetic testing if

there is an ASD diagnosis. It is a generalized recommendation. The next step is for the new consumer to meet with their case manager to discuss the service plan as a team.

78. Hanson stated that genetic testing is typically funded by health insurance. Claimant should talk to her doctor. If the doctor prescribed genetic testing, then claimant's health insurance may cover it. If the health insurer denies coverage for genetic testing, then RCEB could potentially fund it. To do so, RCEB would need documentation of the reasons genetic testing was recommended by the doctor, and of the health insurance denial.

79. At hearing, claimant provided medical progress notes dated June 5, 2025, from Kaiser physician Katherine Gardiner Dawson, M.D., from a video visit consultation to discuss genetic testing for Fragile X syndrome and Ehlers Danlos syndrome. The notes state that it is standard practice to offer comparative genomic hybridization and Fragile X testing to individuals diagnosed with autism spectrum disorder. The notes stated that such testing was offered and accepted. The evidence at hearing did not establish whether claimant's health insurance will cover such genetic testing.

Other Matters

80. Claimant also has disputes with RCEB about other requested services, but they are outside the scope of this appeal.

LEGAL CONCLUSIONS

Services and Supports Under the Lanterman Act

1. The Lanterman Act entitles claimant to an administrative fair hearing to review a regional center's service decisions. (§ 4710 et seq.) Claimant bears the burden

of proof in this matter and the standard of proof required is a preponderance of the evidence. (Evid. Code, §§ 115, 500.)

2. The State of California accepts responsibility for persons with developmental disabilities under the Lanterman Act (§ 4500, et seq.). The Lanterman Act provides that an “array of services and supports should be established ... to meet the needs and choices of each person with developmental disabilities ... and to support their integration into the mainstream life of the community.” (§ 4501.) The purpose of the Lanterman Act is to prevent or minimize the institutionalization of persons with developmental disabilities and their dislocation from family and community; and to enable persons with developmental disabilities to approximate the pattern of everyday living of nondisabled persons of the same age and lead more independent and productive lives. (§§ 4501, 4685.)

3. The Department of Developmental Services (Department) is the state agency charged with implementing the Lanterman Act. It contracts with regional centers that are responsible for providing persons who have developmental disabilities with access to services and supports best suited for them. (§ 4620, subd. (a).)

4. In an appeal about regional center services, the hearing officer is empowered to resolve “all issues concerning the rights of persons with developmental disabilities to receive services under [the Lanterman Act].” (§ 4706, subd. (a).)

5. To determine how a consumer is to be served, a regional center conducts a planning process that results in the development of an IPP. (§ 4646.) The IPP is developed by an interdisciplinary team with participation by the consumer and/or the consumer’s representative. The IPP must state the consumer’s goals and objectives, and state the services and supports that will be purchased by the regional center or

obtained from generic resources. (§§ 4646, 4646.5 & 4648.) The determination of which services and supports are necessary is made after analyzing the needs and preferences of the consumer, the range of service options available, the effectiveness of each option in meeting the IPP goals, and the cost of each option. (§§ 4646, 4646.5 & 4648.)

6. “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. The determination of which services and supports are necessary for each consumer shall be made through the individual program plan process. The determination shall be made on the basis of the needs and preferences of the consumer . . . 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.” (§ 4512, subd. (b).)

7. While regional centers have a duty to provide a wide array of services to consumers, they are also directed by the Legislature to provide the services in a manner that reflects the cost-effective use of public resources. (§§ 4646, subd. (a), 4640.7, subd. (b).) Accordingly, regional centers may not fund duplicate services that are available through another public agency that has a legal responsibility to serve the general public. This prohibition against “supplanting generic resources” is contained in section 4648, subdivision (a)(8). Regional centers must identify and pursue all possible sources of funding for services, including generic services (§ 4646.4, subd. (a)(2)), governmental entities or programs that are required to pay the cost of providing

services (§ 4659, subd. (a)(1)), and private entities that may be liable for the cost of services to the consumer (§ 4659, subd. (a)(2)). Each regional center is also required to comply with the purchase of service policies established for the regional center and approved by the Department. (§ 4646.4, subd. (a).)

8. A regional center "may, pursuant to vendorization or a contract, purchase services or supports for a consumer." (§ 4648, subd. (a)(3).) Vendorization is the "process for identification, selection, and utilization of service vendors . . . based on the qualifications and other requirements necessary in order to provide the service." (§ 4648, subd. (a)(3)(A).) A regional center may reimburse an individual for providing services to a consumer if the individual has completed the vendorization procedures. (§ 4648, subd. (a)(3)(B).) The Lanterman Act has a goal of encouraging regional centers to use innovative and economical service delivery mechanisms to achieve the IPP objectives of persons with developmental disabilities. (§ 4651.) If there is no vendor available to meet a legitimate IPP goal, in some circumstances a regional center client may purchase it from a non-vendored source and seek reimbursement.

9. The Legislature places a high priority on providing opportunities for adults with developmental disabilities to live in their own homes. The Lanterman Act includes various methods that may be used to achieve that goal.

(a) Under section 4688.05: "Regional centers shall provide independent living skills services to an adult consumer, consistent with his or her individual program plan, that provide the consumer with functional skills training that enables him or her to acquire or maintain skills to live independently in his or her own home, or to achieve greater independence while living in the home of a parent, family member, or other person."

(b) Section 4689 discusses supported living services and states that the purpose of SLS is to “provide opportunities for adults to live in their own homes.” A variety of services are available under section 4689, including assistance in finding a home, social, behavioral and daily skills training, and personal care assistance. (§ 4689, subd. (c).)

10. In-home respite services provide intermittent care and supervision to a consumer who resides with a family member. As provided by section 4690.2, subdivision (a), respite services are designed to:

- (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.

Claimant’s Requests

SERVICE DOG

11. The evidence did not establish that RCEB improperly denied claimant’s request for a service dog. Claimant has provided a letter from her psychologist stating that she would benefit from a service animal, but the letter does not explain which of

claimant's medical and psychiatric conditions would be benefited by a service animal, and does not state how the service animal would support claimant. In addition, claimant has not shown that she is unable to obtain funding for a service animal through her health insurance or another generic resource. However, if claimant does provide documentation of the above items, then RCEB must consider it and determine whether RCEB can grant claimant's request based on the additional information.

NUTRITIONIST OR MEDICALLY PRESCRIBED MEALS

12. The evidence did not establish that RCEB improperly denied claimant's request for assistance with a nutritionist or medically prescribed meals. However, if claimant provides additional documentation regarding these requests, such as a medical provider's referral or prescription that explains what medical condition the nutrition-related items are intended to address and why it is medically necessary, and proof of denial of funding through insurance, then RCEB must consider it and determine whether it can grant claimant's request based on the additional information.

TRANSPORTATION OTHER THAN TO SOCIAL RECREATION

13. It was not clear from the evidence presented at hearing what types of activities claimant is seeking transportation to, other than social recreation. Regarding transportation to medical appointments, claimant has applied for a program offered by Berkeley, but it is unclear what the status of that request for a generic resource is. Other transportation-related needs that may fall within the scope of RCEB's Transportation POS policy, such as for day programs, might be addressed if claimant pursues Tailored Day Services. Based on the evidence at hearing, RCEB has not improperly denied claimant's request for additional transportation. It is noted,

however, that RCEB and claimant should continue to discuss her transportation needs in the IPP process.

RESPITE CARE

14. Claimant's argument about the interpretation of the Lanterman Act definition of respite care, that it should apply to her since her family is not her natural support, is not persuasive. The needs identified by claimant for additional help do not properly fall within the statutory definition of in-home respite care. The evidence did not establish that RCEB improperly denied claimant's request for respite care.

However, claimant has persuasively identified needs for additional support that are not being met by her current level of IHSS and ISP services. While these needs do not fall within the definition of respite, they may fall within the scope of other services and supports, such as SLS. RCEB staff are directed to discuss with claimant what other supports and services may be available to meet her needs, in furtherance of her IPP goal of living independently.

HOME HEALTH SUPPORTS AND/OR HOMEMAKER

15. Some of the support needs discussed by claimant in seeking home health supports may be available through SLS or another service. If claimant has specifically medically-related support needs, she should provide RCEB with documentation from a medical provider stating the medical condition and what support claimant needs for it, and documentation that the support is not available through insurance. If claimant provides such documentation, RCEB must consider it and conduct a clinical assessment to determine if additional supports should be included in the IPP. Based on the evidence at hearing, however, claimant has not established that RCEB improperly denied her request for home health supports.

GENETIC TESTING

16. Claimant has been offered and accepted genetic testing through her medical provider. However, the evidence did not establish whether claimant's health insurance will cover such genetic testing. Claimant must provide documentation that genetic testing is not covered by her insurance before RCEB can be required to fund it. The generalized recommendation for genetic testing contained in the eligibility determination letter does not obligate RCEB to fund this item. The evidence at hearing did not establish that RCEB improperly denied claimant's request for genetic testing.

ORDER

Claimant's appeal is denied. The evidence did not establish that RCEB improperly denied claimant's requests to fund the following six items: (1) service dog; (2) nutritionist or medically prescribed meals ("nutritional supplies"); (3) transportation; (4) in-home respite care; (5) home health supports and/or homemaker; and (6) genetic testing. However, as discussed in Legal Conclusions 11 through 16, RCEB must continue to work cooperatively with claimant in the IPP process, and must consider any additional documentation provided by claimant in connection with the items she is seeking.

DATE:

HOLLY M. BALDWIN

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.