

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

**In the Matter of:**

**CLAIMANT**

**and**

**REGIONAL CENTER OF ORANGE COUNTY, Service Agency**

**DDS No. CS0026082**

**OAH No. 2025041094**

**PROPOSED DECISION**

Glynda B. Gomez, Administrative Law Judge, Office of Administrative Hearings (OAH), State of California, heard this matter by videoconference on August 18, 2025.

Claimant was represented by her mother (Mother). Claimant's father and some family friends were also present. Claimant was not present. The names of Claimant and her family members are not used in this proposed decision for privacy reasons.

Ublester Penaloza, Assistant Manager, Fair Hearings and Mediations, represented the Regional Center of Orange County (RCOC).

Oral and documentary evidence was received. The record was closed, and the matter was submitted for decision on August 18, 2025.

## **ISSUE**

Should RCOC provide funding through Claimant's Self-Determination Program's (SDP) Spending Plan for the Spellers Center program (Spellers)?

## **EVIDENCE RELIED UPON**

Claimant's evidence: exhibits C1-C10, C-11,-C-13, C17-C23, C-25-C-26; testimony of Mother.

RCOC's evidence: exhibits 1 through 19; testimony of Carrie Otto, Dr. Rebecca Lech, Christina Genter, Christine Espitia, and Crystal Chavez.

## **FACTUAL FINDINGS**

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

Department. (Welf. & Inst. Code, §§ 4620, subd. (a), 4640, subd. (a); Cal. Code Regs., tit. 17, § 54302, subd. (a)(58).)

2. On June 1, 2024, Claimant transitioned from the traditional model of receiving services and supports through RCOC vendors to the SDP. The SDP is a voluntary program under the Lanterman Act designed “to provide participants and their families, within an individual budget, increased flexibility and choice, and greater control over decisions, resources, and needed and desired services and supports” than the Act’s traditional model for delivery of services and supports. (Welf. & Inst. Code, § 4685.8, subd. (a).) The SDP allows participants and their families to have an annual budget for services and supports to meet the objectives of the participant’s Individual Program Plan (IPP). (Welf. & Inst. Code, § 4685.8.) Claimant’s budget and spending plan included a variety of services and supports, but they did not include funding from RCOC for Spellers.

3. On January 30, 2025, Claimant submitted a modified spending plan which removed Davidson Learning Center and replaced it with Spellers for its services rendered from October 2024 to January 2025. The financial management services (FMS) vendor selected by Claimant paid the expense. However, the service provided by Spellers had not been previously approved by the IPP team and was not part of a signed spending plan. On March 28, 2025, Claimant and RCOC representatives discussed Spellers. RCOC determined that Spellers is a speech/communication program and did not meet the criteria or service definition set forth in Claimant’s spending plan and may be available to Claimant through generic resources. (Ex. 2.) Claimant requested that Spellers be funded as an exception; RCOC denied the request. RCOC also contacted the FMS to initiate action to have the funds returned to Claimant’s budget and stop further payments to Spellers.

4. On April 3, 2025, RCOC issued a Notice of Action (NOA) denying Claimant's request to use SDP funds to pay for Spellers. On April 17, 2025, RCOC received a timely appeal of the NOA requesting a hearing on the denial. All jurisdictional requirements have been met.

5. Claimant is a 16-year-old girl who is eligible for regional center services due to a diagnosis of autism. Claimant has a complex health situation. She has been diagnosed with a genetic mutation that requires annual hematological evaluations, growth hormone deficiency, Attention Deficit Hyperactivity Disorder (ADHD), Central Auditory Processing Disorder, Visual Processing Disorder, Receptive and Expressive Language Disorder, hearing deficits requiring hearing aids, seizures and Asthma. (Ex. 4.) Claimant has severe communication deficits.

6. Claimant lives in the family home with her mother and younger sibling. She is home-schooled at a private school pursuant to a Private School Affidavit (Ex. 26). She attends a home-based private school named "Lighthouse School." Claimant's mother is the executive director of the school. The local school district has refused to provide any related services or assistive technology to Claimant because she attends a private school. According to the school district, the responsibility for "all educational materials and instruction" lies with Claimant's private school. (Ex. C17 and C18.) Medical has also denied Claimant's request for speech therapy based upon her "lower ability to remember information" and the local education agency's responsibility to provide speech therapy. (Ex. 15.)

7. RCOC funded a Communication and Augmentative and Alternative Communication (AAC) evaluation (AAC Evaluation) performed by Kindred Speech and Language Therapy (Kindred) on July 16, 2025. Kindred recommended two hours per week of therapy focusing on Claimant's multi-modal communication style, re-

introduction of Proloquo4Text system on Claimant's iPad and use of AAC based upon the AAC Evaluation recommendations. (Ex. 14). At the time of the AAC Evaluation, Kindred did not have the ability to staff more than one hour per week of therapy, but offered Claimant a place on its waiting list for a second hour each week. (Ex. C4 and C5.)

8. Claimant has been attending and participating in Spellers for one hour per week since the summer of 2024. Spellers describes itself as supporting "nonspeakers, minimal speakers, and unreliable speakers with autism, apraxia, and other related diagnoses" using "the Spellers method." The program is described as follows by its Clinical Manager and Senior Spellers Method Provider Ashlyn Isaia:

The Spellers Method practitioners teach the motor skills needed to communicate via spelling. The Spellers Method supports individuals learning how to spell, either on a letterboard, laminate board, keyboard, or iPad, as their most effective method of communication. This is a form of AAC (alternative and augmentative communication). It incorporates research and expertise from the fields of assistive technology, developmental optometry, and occupational therapy to guide each student's unique path to fluent communication. The Spellers Method follows a structured hierarchy to scaffold the necessary motor skills these individuals need to robustly communicate through spelling and typing. Paired with the consistent guidance of one of our experienced practitioners and routine practice at

home, this helps our spellers achieve their individual communication goals.

(Ex. C6.)

9. Claimant provided several video clips and transcripts demonstrating her Spellers sessions and video clips describing Spellers. (Exs. C6-C9, C12, C13, C19-C23.) According to Claimant's mother, Spellers has helped Claimant improve her functional communication and participate in the community. Indeed, some of the video clips depicted Claimant actively participating in sessions using letterboards to spell words with a communication partner. Mother's testimony about her observations of Claimant's progress with Spellers is credited. Additionally, Spellers' August 13, 2025 email to Mother provides that Claimant "has progressed from answering simple questions on the letterboards to being able to robustly expressing [sic] her thoughts on a keyboard." (Ex. C7) However, Claimant was not able to provide any research or evidence-based validation of Speller's program and/or methodology.

10. RCOC's witnesses testified that RCOC is precluded from funding Spellers. Carrie Otto, the Associate Director of RCOC, testified on behalf of RCOC. Ms. Otto testified that regional centers are required to ensure that generic resources (i.e., natural resources, natural supports, private insurance, and public resources such as Medi-Cal and school district resources) are utilized before RCOC, as a payor of last resort, funds services or supports. In addition, all RCOC-funded services must relate to the outcomes set forth in the consumer's IPP and comply with the consumer's SDP spending plan, if the consumer is utilizing SDP. According to Ms. Otto, Augmentative Communication devices and instruction, like that offered by Spellers, for someone Claimant's age are typically provided as part of a Free Appropriate Public Education (FAPE), which is the responsibility of the local educational agency. Additionally, RCOC

is not permitted to fund experimental treatments or therapies including those that have not been established to be evidence-based. According to Ms. Otto, consumers in the SDP have the flexibility to choose providers that are not RCOC vendors, but all services must be agreed upon by the consumer and the RCOC and comply with DDS directives and the RCOC purchase of service (POS) policies, including the July 8, 2204 directive that states "[S]DP funds can only be used for goods and services that: have been approved by the federal Centers for Medicare and Medicaid Services." (See Ex. 9.)

11. RCOC witness Christine Espitia, a licensed California Speech-Language pathologist (SLP), has 18 years of experience in the field. She holds a Bachelor of Arts degree and a Master of Science degree in Communicative Disorders and certification in Clinical Competence from the American Speech-Language Hearing Association (ASHA). Ms. Espitia has worked as a consultant for RCOC since 2007. She is experienced with the population of developmentally disabled clients served by RCOC. Ms. Espitia was aware of Spellers. According to Ms. Espitia, Spellers is part of an "emergent field" and has training programs for occupational therapists and SLPs interested in the program. However, she was unequivocal in her testimony that Spellers is not evidence-based, peer-reviewed, or studied as a therapy appropriate for a person with autism.

12. The testimony of Ms. Otto and Ms. Espitia was corroborated by Rebecca Lech, D.O., an RCOC medical consultant. Dr. Lech is a licensed Doctor of Osteopathic Medicine. Dr. Lech reviewed Spellers' program to determine if it qualified for RCOC funding. After reviewing the program components, Dr. Lech determined that Spellers was not evidence-based and therefore not eligible for RCOC funding. Her testimony is credited.

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13. Considering the parties' evidence, there is a lack of proof that Speller's has been clinically determined or scientifically proven to be effective for the treatment or remediation of autism. There is also a lack of proof that Spellers reflects evidence-based practices. These findings are dispositive in this case and preclude granting Claimant's appeal, without reaching the issue of the availability of generic resources, for the reasons described below.

## **LEGAL CONCLUSIONS**

### **Legal Standards**

1. Disputes about the rights of disabled persons to receive services and supports under the Lanterman Act are decided under the fair hearing and appeal procedures in the Act. (Welf. & Inst. Code, § 4706, subd. (a).) "'Services and supports for persons with developmental disabilities' means specialized services and supports or special adaptations of generic services and supports directed toward the alleviation of a developmental disability or toward the social, personal, physical, or economic habilitation or rehabilitation of an individual with a developmental disability, or toward the achievement and maintenance of an independent, productive, and normal life." (Welf. & Inst. Code, § 4512, subd. (b).) The determination of Claimant's services and supports "shall be made on the basis of the needs and preferences of the consumer or, when appropriate, the consumer's family, and shall include consideration of a range of service options proposed by individual program plan participants, the effectiveness of each option in meeting the goals stated in the individual program plan, and the cost-effectiveness of each option." (*Ibid.*; see also Welf. & Inst. Code, § 4646, subd. (a).)

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2. The Lanterman Act prohibits regional centers from funding experimental treatments or scientifically unproven services. "Notwithstanding any other law or regulation, effective July 1, 2009, regional centers shall not purchase experimental treatments, therapeutic services, or devices that have not been clinically determined or scientifically proven to be effective or safe or for which risks and complications are unknown. Experimental treatments or therapeutic services include experimental medical or nutritional therapy when the use of the product for that purpose is not a general physician practice." (Welf. & Inst. Code, § 4648, subd. (a)(17).)

3. Claimant has requested that RCOC approve the use of SDP funding for Spellers. RCOC has not previously approved the use of funds for that purpose, and thus, Claimant is seeking to change the status quo. As the party proposing to change the status quo, Claimant bears the burden of proving the change is justified. (See Evid. Code, § 500; *In re Conservatorship of Hume* (2006) 140 Cal.App.4th 1385, 1388.) The burden of proof requires proof by a preponderance of the evidence, because nothing in the Lanterman Act or another law provides otherwise. (Evid. Code, § 115 ["Except as otherwise provided by law, the burden of proof requires proof by a preponderance of the evidence."].)

4. The evidence presented does not demonstrate a basis for granting this appeal. The evidence does not prove that Spellers has been clinically determined or scientifically proven to be effective for the treatment or remediation of Claimant's disability, as required for RCOC to approve funding for it. (Welf. & Inst. Code, § 4648, subd. (a)(17).) The program was also not shown to reflect evidence-based practices. Therefore, RCOC was justified in denying the request to approve Claimant's use of SDP funds for Spellers.

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5. Claimant's mother requests an exception to these funding restrictions due to the improvement Claimant has shown while participating in Spellers. However, there is no exception to the referenced funding restrictions, and such restrictions are dispositive in this case. Because RCOC is prohibited from funding Spellers, there is no need to determine the availability of generic resources. RCOC's denial of approval of funding for Spellers under Claimant's SDP spending plan is appropriate.

## **ORDER**

Claimant's appeal is denied.

DATE:

GLYNDA B. GOMEZ

Administrative Law Judge

Office of Administrative Hearings

BEFORE THE  
DEPARTMENT OF DEVELOPMENTAL SERVICES  
STATE OF CALIFORNIA

In the Matter of:

Claimant

OAH Case No. 2025041094

Vs.

**DECISION BY THE DIRECTOR**

Regional Center of Orange County,

Respondent.

ORDER OF DECISION

On August 28, 2025, an Administrative Law Judge (ALJ) at the Office of Administrative Hearings (OAH) issued a Proposed Decision in this matter. The Department of Developmental Services (Department) takes the following action on the attached Proposed Decision of the ALJ:

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

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

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

IT IS SO ORDERED on this day September 24, 2025.

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