

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

**In the Matter of:**

**CLAIMANT**

**and**

**SAN DIEGO REGIONAL CENTER,**

**Service Agency**

**DDS No. CS0026262**

**OAH No. 2025041208**

**DECISION**

Abraham M. Levy, Administrative Law Judge, Office of Administrative Hearings, State of California, heard this matter by videoconference on June 11, 2025.

Claimant's mother represented claimant, who was not present.

Erik Peterson, Appeals and Resolutions Manager, San Diego Regional Center (SDRC), represented SDRC.

Oral and documentary evidence was received. The record was closed, and the matter submitted for decision on June 11, 2025.



## **ISSUES**

The issues to be decided are first, whether SDRC is required to continue funding Applied Behavioral Analysis (ABA) services for claimant, and if so whether SDRC is required to fund 10 hours weekly of ABA services for claimant.

## **FACTUAL FINDINGS**

### **Background**

1. Claimant is a 20-year-old female who qualifies for regional center services. She has diagnoses of Autism Spectrum Disorder, seizure disorder, developmental delays, speech apraxia, and scoliosis. She lives with her mother and sister and is under a full conservatorship. Her mother is her conservator. Claimant attends an adult transition program through a public school and attends community college.

2. Claimant has Medi-Cal and receives 283 hours per month of In-Home Supportive Services with her mother as the provider. Claimant also presently receives up to 27 hours per month of ABA services through Verbal Behavior Associates (VBA) as the vendor. Claimant receives through VBA four hours per week of direct services and four hours for parent training/supervision.

3. Claimant agreed to the current level of ABA services as part of a fade out plan of ABA services to independent living services (ILS) as claimant works to transition to adult services. In a Notice of Resolution (NOR) dated January 24, 2025, SDRC agreed to help claimant find an ILS vendor who would be willing to be trained in ABA strategies and implement claimant's Behavior Intervention Plan (BIP). As part of this



agreement, SDRC agreed to fund a board-certified behavioral analyst (BCBA) consult of 10 hours a month for six months to train caregivers, including ILS, on the behavior plan and for the ILS vendor to perform an assessment as part of its services.

4. Despite the fade out plan, claimant seeks to go back to 10 hours per week of direct ABA services and two hours of ABA supervision hours. Claimant's mother seeks this due to claimant protesting the reduction and claimant's ongoing behavior problems. Claimant's mother asks for the direct ABA services in lieu of ILS.

6. SDRC issued a Notice of Action on April 24, 2025, denying claimant's request. SDRC cites as its reasons for denying claimant's request VBA's reports and SDRC's clinical teams review, ABA services have met claimant's needs, and ABA services are not to be used as ILS.

7. Claimant requested a hearing in a letter dated April 25, 2025. In this letter, claimant's mother explained she appealed because she sees that there has been no progress in securing ILS and no meeting to address the status of ILS.

### **Evidence Presented by Regional Center**

8. The following findings are based on testimony of Nelson Castillo, SDRC Program Manager, and Katherine Sorensen, Autism Services Coordinator, reports from VBA, claimant's most recent Individual Program Plan (IPP) and Amended IPP, emails between SDRC's behavior review team, SDRC staff and claimant's mother, SDRC case notes, the January 24, 2025 NOR, and other documentary evidence (Exhibits 1 to 19). These materials were received as evidence.



## **FADE OUT PLAN REGARDING ABA SERVICES**

9. Claimant has been receiving ABA services since 2012, and has been receiving direct ABA services through SDRC since January 2024. Starting in the fall of 2024, SDRC initiated a gradual decrease of ABA direct funding as recommended by claimant's ABA provider, VBA. SDRC's behavioral team which consisted of Ms. Sorensen, Mellissa Melgar, SDRC's coordinator of behavior services, and Laurel Critti, an SDRC behavior specialist, supported that recommendation. In November 2024, claimant's mother asked that claimant's direct ABA services funding be continued beyond the contract termination date. An agreement was reached as documented in the NOR dated January 24, 2025, as discussed above. Per this agreement, SDRC agreed to help claimant find an ILS provider who agrees to be trained in ABA strategies and follow claimant's BIP. SDRC further agreed to fund direct ABA services through April 30, 2025; and starting May 1, 2025, SDRC authorized a BCBA consult of 10 hours per month to train caregivers, including ILS on the ABA strategies and claimant's BIP. If there are concerns with progress, SDRC also agreed to hold a planning team meeting to problem solve. SDRC found one ILS vendor with services set to begin on May 5, 2025.

Claimant's mother requested a hearing and pending the decision in this matter claimant continues to receive 27 hours per month of ABA services.

## **KATHERINE SORENSEN'S TESTIMONY**

10. Ms. Sorensen testified and her testimony is summarized as follows:

11. Ms. Sorensen has a bachelor's degree in psychology and a master's degree in behavioral analysis. She has been a BCBA for five years and has applied ABA services in the clinical, residential and school settings.



Ms. Sorensen noted that ABA has two specific components: direct 1:1 ABA services as part of intensive services with a board-certified behavioral analyst overseeing the services, and coaching to a parent. The issue in this matter is direct services for claimant.

12. Ms. Sorensen testified based on her clinical analysis and the information in the record she reviewed, in her opinion, the fade out plan for direct ABA services is appropriate and parent training is also appropriate.

In support of her opinion, Ms. Sorensen cited VBA's January 31, 2023, report. VBA noted in its report that claimant was doing very well in the ABA program with most of her behavior goals met, specifically, no incidents of vocal protest, elopement, throwing/swiping, 1.12 incidents per hour of perseverative statements, 0.36 incidents per hour of skin picking, 0.23 incidents per hour of non-compliance, 0.24 incidents per hour of aggression towards her mother and sister, and 0.03 incidents per hour of aggression towards staff.

13. Subsequently, VBA detailed the specifics of the proposed fade out plan it recommended that reduced both direct ABA services and supervision services to 27 hours a month between January 2025 to May 1, 2025. A timeline of claimant's ABA services notes the following: In January 2024, 54 hours of ABA services were authorized; per month; between August 1, 2024, to August 31, 2024, 12 hours were authorized; between September 1, 2024, to October 31, 2024, 24 hours were authorized; and in November 1, 2024, to January 31, 2025, 27 hours were authorized. VBA based its recommendation regarding the fade out plan on claimant's levels of functioning and skill levels. Most recently, VBA affirmed the fade out plan in a report dated February 26, 2025.



14. In further support of her opinion, Ms. Sorensen cited an independent assessment SDRC obtained from Sherri Miller, M.Ed., BCBA. Ms. Miller prepared a report dated November 30, 2023. Ms. Miller interviewed claimant's mother, observed claimant in her home, and reviewed VBA's report documenting the goals claimant has met and her progress both in terms of developing independent living skills and her behavioral goals.

Ms. Miller concluded that claimant would benefit from support through an independent ILS program suited for her age and abilities. Ms. Miller noted that claimant has made significant progress per claimant's mother and claimant would benefit from a transition period with her current ABA provider cross training with ILS staff to ensure claimant has the supports in place that have proven successful for her. Ms. Miller acknowledged claimant's problem with transitioning, but the time of cross training would give claimant time to become familiar with ILS staff in the presence of VBA staff. Ms. Miller stressed the importance of this cross training for claimant's continued progress and to ensure that claimant does not regress behaviorally.

15. Ms. Sorensen referenced a discussion Ms. Melgar had with Catherine Pope, BCBA, who prepared one of the VBA reports mentioned above. Ms. Pope told Ms. Melgar that claimant is doing very well and her problem behaviors have reduced. She added that claimant's mother noted problem behaviors in the home setting, but Ms. Pope said this could be addressed with behavior consultation so claimant's caregivers can be trained to manage her behaviors outside of the sessions.

16. Ms. Sorensen added that claimant seems to be doing well in other activities, and specifically music therapy. Her music therapist noted that she "has been doing an amazing job in sessions" and is a "joy to work with and highly motivated by music." Her music therapist recommended more music therapy.



17. In her analysis of claimant's requested need for continuing ABA services Ms. Sorensen commented that lasting behavioral change requires that the individual learn skills and generalization he or she can apply across different environments and settings. To achieve maintenance and generalization, the key is to have a stakeholder, a mother, father, or sister.

18. Ms. Sorensen stressed that when direct ABA services are used for too long the risk is that the individual may become "prompt dependent." Prompts need to be reduced so that the person can apply skills independently. The point of having the caregiver involved is so that the person can work on skills 24/7.

19. Ms. Sorensen acknowledged that claimant's occupational therapist recommended continuing ABA therapy for claimant. She said that an occupational therapist is not qualified to recommend ABA therapy for a consumer. An ABA analyst would need to do this.

20. Similarly, claimant's attending psychiatrist in rehabilitation medicine at Rady's Pediatric and Scoliosis Center also recommended continued ABA therapy for claimant to help her in emotional and behavioral self-regulation. Ms. Sorensen said the physician's note was general and at any rate an ABA analyst would still need to recommend ABA therapy.

21. In summary, Ms. Sorensen said that five board-certified behavioral analysts recommended discontinuing ABA services. Based on their reports, and pursuant to Welfare and Institutions Code section 4686.2, subdivision (b)(4), discontinuing claimant's ABA services is required because claimant's "treatment goals and objectives" have been "achieved."



## **Evidence Presented on Behalf of Claimant**

22. Claimant submitted the following documents: An ABA Timeline; VBA reports from 2021, 2022, 2023; the Department of Developmental Services response to claimant's Welfare and Institutions section 4731, subdivision (c), complaint; a print out of information regarding behavioral health treatment; ABA reassessment; VBA February 18, 2025 Treatment Plan and Progress Report; ABA recommendations; April 21, 2025, speech therapist incident report; April 25, 2025, occupational therapist letter of support; and ABA recommendation from claimant's rehabilitation physician. Claimant's mother also testified. (Exhibits A to R.) The following is a summary of the evidence of record.

### **CLAIMANT'S MOTHER'S TESTIMONY AND SUPPORTING EVIDENCE**

23. Claimant's mother believes claimant requires continuing direct ABA because claimant's behaviors have gotten worse. She said that claimant does not hit the BCBA therapist; she is aggressive towards family members, had an incident with a respite provider on June 7, 2025, and had an incident in April 2025 with her speech therapist. Her speech therapist noted that claimant pushed her and squeezed her mother's arm during their session. One of her rehabilitation physicians wrote in a letter dated December 7, 2023, that during a visit claimant struggled with keeping her hands to herself and pushed her mother. Claimant's mother is fully trained in strategies to help ameliorate claimant's behaviors but regardless of this training claimant's problem aggressive behaviors continue.

24. The letter claimant's mother submitted from claimant's occupational therapist who strongly advocated for claimant to continue to receive ABA services as



“essential support for [claimant’s] regulation, and self-advocacy skills” as she “navigates transitions in early adulthood.”

25. The letter from one of claimant’s rehabilitation physicians. He wrote that claimant requires continuing ABA therapy “to assist in emotional and behavioral self-regulation and functional independence.”

## **LEGAL CONCLUSIONS**

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

1. In a proceeding to determine whether an individual is eligible for services, the burden of proof is on the claimant to establish by a preponderance of the evidence that SDCR should fund the requested service. (Evid. Code, §§ 115, 500; *McCoy v. Bd. of Retirement* (1986) 183 Cal.App.3d 1044, 1051-1052.)

### **Evaluation and Disposition**

2. Claimant has the burden of proving she is entitled to the relief sought in the fair hearing request. Claimant did not meet her burden to require SDRC to continue to fund direct ABA services for her indefinitely. Pursuant to Welfare and Institutions Code section 4686.2, subdivision (b)(4), regional centers are required to discontinue ABA services for a consumer when the consumer’s treatment goals and objectives are achieved. Ms. Sorensen testified persuasively that claimant’s treatment goals have been achieved, and direct ABA services should be discontinued. Her opinion is based on the reports of claimant’s ABA therapy provider, the assessment of an independent ABA therapist and other ABA therapists, and reports that claimant has been doing well in different settings. Claimant did not provide persuasive evidence to



dispute Ms. Sorensen's opinion. She relied on statements from her occupational therapist and rehabilitation physician, but they only stated in general terms that claimant would continue to benefit from ABA therapy. Their opinions do not contradict the opinions of numerous ABA therapists who are more qualified to render those opinions.

With this noted, claimant and her mother are clearly struggling with a transition without direct ABA therapy. Claimant's mother testified that claimant continues to engage in problem behaviors outside of the ABA therapy sessions and has been aggressive towards her. Further, the ILS vendor SDRC found does not appear to be trained in ABA strategies or claimant's BIP to ensure this transition works for claimant and her family. Thus, to discontinue direct ABA services right now would be premature. An additional six months for the fade out plan for ABA direct funding effective May 1, 2025, should help to ensure claimant gets the services she requires to help her achieve and maintain "an independent, productive, and normal life." (Welf. & Inst. Code, §§ 4512, subd. (b), 4688.05.)

## **ORDER**

Claimant's appeal is granted in part and denied in part.

SDRC shall fund direct ABA services at 10 hours per week from May 1, 2025, through October 31, 2025. SDRC will also fund two hours of ABA supervision during this period.

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During this time SDRC will make best efforts to ensure that an ILS provider is trained in ABA strategies and follows claimant's BIP. As it had agreed to previously, SDRC will also authorize a BCBA consult of 10 hours per month to train caregivers, including ILS providers on the behavior plan.

DATE: June 19, 2025

ABRAHAM M. LEVY  
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 under 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.



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

**In the Matter of:**

**CLAIMANT**

**and**

**SAN DIEGO REGIONAL CENTER, Service Agency.**

**DDS No. CS0026262**

**OAH No. 2025041208**

**ORDER ON APPLICATIONS FOR RECONSIDERATION**

An Administrative Law Judge (ALJ) from the Office of Administrative Hearings (OAH) issued a decision in this matter on June 19, 2025.

On June 27, 2025, claimant applied to OAH for reconsideration of the decision under Welfare and Institutions Code section 4713. The application for reconsideration was timely submitted. Claimant gave appropriate notice of the application to San Diego Regional Center (SDRC) and the Department of Developmental Services (DDS).

On July 1, 2025, SDRC also applied to OAH for reconsideration of the decision. The application for reconsideration was timely submitted. SDRC gave appropriate notice of the application to claimant and DDS. On July 2, 2025, claimant filed a response to SDRC's application.



The undersigned hearing officer did not hear the matter or write the decision for which reconsideration is requested.

A party may request reconsideration to correct a mistake of fact or law or a clerical error in the decision, or to address the decision of the original hearing officer not to recuse themselves following a request pursuant to Welfare and Institutions Code section 4712, subdivision (g). Here, claimant seeks reconsideration on the grounds of an error of fact or law. Specifically, claimant states the decision is in error because the decision ordered six months of ABA therapy, effective May 1, 2025, which predates the decision issuance date. Thus, effectively, claimant would receive less than six months of ABA therapy since the decision was issued on June 19, 2025. SDRC, in its application for reconsideration, also requests that the effective date of the ABA therapy be revised to a date in the future.

SDRC also requests reconsideration for an error in fact or law, arguing that the ALJ erred by awarding more hours of ABA therapy than claimant had requested. In response, claimant argued that the hours awarded in the decision were what she had requested at hearing.

Based on the parties' arguments, grounds exist to grant both applications for reconsideration in order for the ALJ to clarify the decision on both issues.

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## **ORDER**

The application for reconsideration of the final decision is GRANTED, and the matter is remanded to the hearing officer to issue a Decision Following Reconsideration, within 15 calendar days, to address the issues raised in the parties' applications.

DATE: July 8, 2025

ADAM L. BERG

Presiding Administrative Law Judge

Office of Administrative Hearings



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STATE OF CALIFORNIA**

**In the Matter of:**

**CLAIMANT**

**and**

**SAN DIEGO REGIONAL CENTER,**

**Service Agency**

**DDS No. CS0026262**

**OAH No. 2025041208**

**DECISION AFTER RECONSIDERATION**

Abraham M. Levy, Administrative Law Judge (ALJ), Office of Administrative Hearings, State of California, heard this matter by videoconference on June 11, 2025.

Claimant's mother represented claimant, who was not present.

Erik Peterson, Appeals and Resolutions Manager, San Diego Regional Center (SDRC), represented SDRC.

Oral and documentary evidence was received. The record was closed, and the matter submitted for decision on June 11, 2025.



## **SUMMARY OF ISSUES AND REQUESTS FOR RECONSIDERATION**

The issues, as articulated in the original decision in this matter, are first, whether SDRC is required to continue funding Applied Behavioral Analysis (ABA) services for claimant, and if so whether SDRC is required to fund 10 hours weekly of ABA services for claimant.

The original decision in this matter granted claimant's fair hearing request in part. The decision directed SDRC to fund direct ABA services at 10 hours per week from May 1, 2025, through October 31, 2025. SDRC was further directed to fund two hours of ABA supervision during this period. In addition, SDRC was directed to make best efforts to ensure that an independent living skills (ILS) provider is trained in ABA strategies and follows claimant's Behavior Intervention Plan (BIP) and authorize a board-certified behavioral analyst (BCBA) consult of 10 hours per month to train caregivers, including ILS providers on the behavior plan.

Claimant states the decision is in error because the decision ordered six months of ABA therapy, effective May 1, 2025, which predates the June 19, 2025, decision issuance date, because a fade out plan for securing ILS and increasing ABA has not been started to date.

SDRC, in its application for reconsideration, also requests that the effective date of the ABA therapy be revised to a date in the future.

SDRC additionally argues as an error in fact or law that the ALJ erred by awarding more hours of ABA therapy than claimant had requested. In response, claimant argued that the hours awarded in the decision were what she had requested at hearing.



In terms of the issues to be decided in this matter it must first be noted that at the start of the hearing on June 11, 2025, the parties discussed the issues to be addressed in the decision and SDRC identified one of the issues as claimant's request for an increase in ABA hours. Claimant agreed with that characterization of the issue and SDRC did not object.

## **FACTUAL FINDINGS**

### **Background**

1. Claimant is a 20-year-old female who qualifies for regional center services. She has diagnoses of autism spectrum disorder, seizure disorder, developmental delays, speech apraxia, and scoliosis. She lives with her mother and sister and is under a full conservatorship. Her mother is her conservator. Claimant attends an adult transition program through a public school and attends community college.

2. Claimant has Medi-Cal and receives 283 hours per month of In-Home Supportive Services with her mother as the provider. Claimant also presently receives up to 27 hours per month of ABA services through Verbal Behavior Associates (VBA) as the vendor. Claimant receives through VBA four hours per week of direct services and four hours for parent training/supervision.

3. Claimant agreed to the current level of ABA services as part of a fade out plan of ABA services to independent living services (ILS) as claimant works to transition to adult services. In a Notice of Resolution (NOR) dated January 24, 2025, SDRC agreed to help claimant find an ILS vendor who would be willing to be trained in ABA strategies and implement claimant's BIP. As part of this agreement, SDRC agreed to



fund a BCBA consult of 10 hours a month for six months to train caregivers, including ILS, on the behavior plan and for the ILS vendor to perform an assessment as part of its services.

4. Despite the fade out plan, claimant seeks “to go back” to 10 hours per week of direct ABA services and two hours of ABA supervision hours. Laurel Critti and Mellissa Melgar, two members of SDRC behavioral team acknowledged that claimant was seeking this amount of ABA services in a communication dated September 17, 2024. (Exhibit 16, A186.) Claimant’s mother seeks this due to claimant protesting the reduction and claimant’s ongoing behavior problems. Claimant’s mother asks for the direct ABA services in lieu of ILS.

6. SDRC issued a Notice of Action on April 24, 2025, denying claimant’s request. SDRC cites as its reasons for denying claimant’s request VBA’s reports and SDRC’s clinical teams review, ABA services have met claimant’s needs, and ABA services are not to be used as ILS.

7. Claimant requested a hearing in a letter dated April 25, 2025. In this letter, claimant’s mother explained she appealed because she sees that there has been no progress in securing ILS and no meeting to address the status of ILS.

### **Evidence Presented by Regional Center**

8. The following findings are based on testimony of Nelson Castillo, SDRC Program Manager, and Katherine Sorensen, Autism Services Coordinator, reports from VBA, claimant’s most recent Individual Program Plan (IPP) and Amended IPP, emails between SDRC’s behavior review team, SDRC staff and claimant’s mother, SDRC case notes, the January 24, 2025 NOR, and other documentary evidence (Exhibits 1 to 19). These materials were received as evidence.



## **FADE OUT PLAN REGARDING ABA SERVICES**

9. Claimant has been receiving ABA services since 2012, and has been receiving direct ABA services through SDRC since January 2024. Starting in the fall of 2024, SDRC initiated a gradual decrease of ABA direct funding as recommended by claimant's ABA provider, VBA. SDRC's behavioral team which consisted of Ms. Sorensen, Ms. Melgar, SDRC's coordinator of behavior services, and Ms. Critti, an SDRC behavior specialist, supported that recommendation. In November 2024, claimant's mother asked that claimant's direct ABA services funding be continued beyond the contract termination date. An agreement was reached as documented in the NOR dated January 24, 2025, as discussed above. Per this agreement, SDRC agreed to help claimant find an ILS provider who agrees to be trained in ABA strategies and follow claimant's BIP. SDRC further agreed to fund direct ABA services through April 30, 2025; and starting May 1, 2025, SDRC authorized a BCBA consult of 10 hours per month to train caregivers, including ILS on the ABA strategies and claimant's BIP. If there are concerns with progress, SDRC also agreed to hold a planning team meeting to problem solve. SDRC found one ILS vendor with services set to begin on May 5, 2025.

Claimant's mother requested a hearing and pending the decision in this matter claimant continues to receive 27 hours per month of ABA services.

## **KATHERINE SORENSEN'S TESTIMONY**

10. Ms. Sorensen testified and her testimony is summarized as follows:

11. Ms. Sorensen has a bachelor's degree in psychology and a master's degree in behavioral analysis. She has been a BCBA for five years and has applied ABA services in the clinical, residential and school settings.



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12. Ms. Sorensen testified based on her clinical analysis and the information in the record she reviewed, in her opinion, the fade out plan for direct ABA services is appropriate and parent training is also appropriate.

In support of her opinion, Ms. Sorensen cited VBA's January 31, 2023, report. VBA noted in its report that claimant was doing very well in the ABA program with most of her behavior goals met, specifically, no incidents of vocal protest, elopement, throwing/swiping, 1.12 incidents per hour of perseverative statements, 0.36 incidents per hour of skin picking, 0.23 incidents per hour of non-compliance, 0.24 incidents per hour of aggression towards her mother and sister, and 0.03 incidents per hour of aggression towards staff.

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Ms. Miller concluded that claimant would benefit from support through an independent ILS program suited for her age and abilities. Ms. Miller noted that claimant has made significant progress per claimant's mother and claimant would benefit from a transition period with her current ABA provider cross training with ILS staff to ensure claimant has the supports in place that have proven successful for her. Ms. Miller acknowledged claimant's problem with transitioning, but the time of cross training would give claimant time to become familiar with ILS staff in the presence of VBA staff. Ms. Miller stressed the importance of this cross training for claimant's continued progress and to ensure that claimant does not regress behaviorally.

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19. Ms. Sorensen acknowledged that claimant's occupational therapist recommended continuing ABA therapy for claimant. She said that an occupational therapist is not qualified to recommend ABA therapy for a consumer. An ABA analyst would need to do this.

20. Similarly, claimant's attending psychiatrist in rehabilitation medicine at Rady's Pediatric and Scoliosis Center also recommended continued ABA therapy for claimant to help her in emotional and behavioral self-regulation. Ms. Sorensen said the physician's note was general and at any rate an ABA analyst would still need to recommend ABA therapy.

21. In summary, Ms. Sorensen said that five board-certified behavioral analysts recommended discontinuing ABA services. Based on their reports, and pursuant to Welfare and Institutions Code section 4686.2, subdivision (b)(4), discontinuing claimant's ABA services is required because claimant's "treatment goals and objectives" have been "achieved."



## **Evidence Presented on Behalf of Claimant**

22. Claimant submitted the following documents: An ABA Timeline; VBA reports from 2021, 2022, 2023; the Department of Developmental Services response to claimant's Welfare and Institutions section 4731, subdivision (c), complaint; a print out of information regarding behavioral health treatment; ABA reassessment; VBA February 18, 2025 Treatment Plan and Progress Report; ABA recommendations; April 21, 2025, speech therapist incident report; April 25, 2025, occupational therapist letter of support; and ABA recommendation from claimant's rehabilitation physician. Claimant's mother also testified. (Exhibits A to R.) The following is a summary of the evidence of record.

### **CLAIMANT'S MOTHER'S TESTIMONY AND SUPPORTING EVIDENCE**

23. Claimant's mother believes claimant requires continuing direct ABA because claimant's behaviors have gotten worse. She said that claimant does not hit the BCBA therapist; she is aggressive towards family members, had an incident with a respite provider on June 7, 2025, and had an incident in April 2025 with her speech therapist. Her speech therapist noted that claimant pushed her and squeezed her mother's arm during their session. One of her rehabilitation physicians wrote in a letter dated December 7, 2023, that during a visit claimant struggled with keeping her hands to herself and pushed her mother. Claimant's mother is fully trained in strategies to help ameliorate claimant's behaviors but regardless of this training claimant's problem aggressive behaviors continue.

24. The letter claimant's mother submitted from claimant's occupational therapist strongly advocated for claimant to continue to receive ABA services as



“essential support for [claimant’s] regulation, and self-advocacy skills” as she “navigates transitions in early adulthood.”

25. In addition, one of claimant’s rehabilitation physicians wrote that claimant requires continuing ABA therapy “to assist in emotional and behavioral self-regulation and functional independence.”

## **LEGAL CONCLUSIONS**

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

1. In a proceeding to determine whether an individual is eligible for services, the burden of proof is on the claimant to establish by a preponderance of the evidence that SDCR should fund the requested service. (Evid. Code, §§ 115, 500; *McCoy v. Bd. of Retirement* (1986) 183 Cal.App.3d 1044, 1051-1052.)

### **Evaluation and Disposition**

2. Claimant has the burden of proving she is entitled to the relief sought in the fair hearing request. Claimant did not meet her burden to require SDRC to continue to fund direct ABA services for her indefinitely. Pursuant to Welfare and Institutions Code section 4686.2, subdivision (b)(4), regional centers are required to discontinue ABA services for a consumer when the consumer’s treatment goals and objectives are achieved. Ms. Sorensen testified persuasively that claimant’s treatment goals have been achieved, and direct ABA services should be discontinued. Her opinion is based on the reports of claimant’s ABA therapy provider, the assessment of an independent ABA therapist and other ABA therapists, and reports that claimant has been doing well in different settings. Claimant did not provide persuasive evidence to



dispute Ms. Sorensen's opinion to require SDRC to fund direct ABA services beyond a six-month period to allow for a transition to a qualified ILS provider or providers. She relied on statements from her occupational therapist and rehabilitation physician, but they only stated in general terms that claimant would continue to benefit from ABA therapy. Their opinions do not contradict the opinions of numerous ABA therapists who are more qualified to render those opinions.

With this noted, claimant and her mother are clearly struggling with a transition without direct ABA therapy. Claimant's mother testified that claimant continues to engage in problem behaviors outside of the ABA therapy sessions and has been aggressive towards her. Further, the ILS vendor SDRC found does not appear to be trained in ABA strategies or claimant's BIP to ensure this transition works for claimant and her family. Thus, to discontinue direct ABA services right now would be premature.

An additional six months for the fade out plan for ABA direct funding effective the date of this decision is warranted to allow the qualified ILS vendor to be found. This should help to ensure claimant gets the services she requires to help her achieve and maintain "an independent, productive, and normal life." (Welf. & Inst. Code, §§ 4512, subd. (b), 4688.05.)

As a matter of clarification this six-month period is to start the date of issuance of this reconsidered decision and continue for six months, to allow for the qualified ILS vendor to be in place.

With regards to SDRC's argument that there was an error of law or fact because the decision awarded hours claimant was not even requesting (64 hours of ABA per month [10 hours per week direct, 2 hours per week supervision, 10 hours per month consultation]), SDRC is incorrect. Claimant specifically sought to go back to 10 hours



per week of direct ABA services and two hours of ABA supervision hours. An email, as mentioned above, from Ms. Critti to Ms. Melgar identifies these hours as the hours claimant was seeking. Additionally, the record reflects that SDRC agreed to fund direct ABA services through April 30, 2025; and starting May 1, 2025, SDRC authorized a BCBA consult of 10 hours per month to train caregiver. And as noted, SDRC recognized at the start of the hearing on June 11, 2025, that claimant was seeking an increase in ABA hours.

## **ORDER**

Claimant's appeal on reconsideration is granted. SDRC's appeal on reconsideration is denied.

SDRC shall fund direct ABA services at 10 hours per week for six months from the date of this decision. SDRC will also fund two hours per week of ABA supervision during this period.

During this time SDRC will make best efforts to ensure that an ILS provider is trained in ABA strategies and follows claimant's BIP. As it had agreed to previously, SDRC will also authorize a BCBA consult of 10 hours per month to train caregivers, including ILS providers on the behavior plan.

DATE: July 8, 2025

ABRAHAM M. LEVY  
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 under 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.