

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

**In the Matter of:**

**CLAIMANT**

**and**

**INLAND REGIONAL CENTER, Service Agency**

**DDS No. CS0026791**

**OAH No. 2025050745**

**DECISION**

Mary Agnes Matyszewski, Administrative Law Judge, Office of Administrative Hearings (OAH), State of California, heard this matter on June 26, October 14, 2025, October 28, 2025, and December 2, 2025.

Susan Sindelar, Attorney, Disability Rights California, represented claimant who was not present.

Julie Ocheltree, Attorney, Enright & Ocheltree, LLP, represented Inland Regional Center (IRC).

Oral and documentary evidence was received. The record remained open to allow the parties to submit written closing arguments. Those briefs were received and

marked as the parties' arguments. The record was set to be closed on January 29, 2026, but claimant submitted a request to admit a newly obtained exhibit, a letter from IRC's Executive Director in response to claimant's Welfare and Institutions Code section 4731 complaint. An order was issued keeping the record open, and allowing IRC to respond to the request. IRC advised it had no objection to the letter being admitted. After considering claimant's request, it was granted and the letter was marked and received in evidence as Exhibit CCC.

In its reply closing brief, IRC moved to exclude consideration of claimant's closing brief because it was served on IRC three hours past the 5:00 p.m. deadline. However, IRC failed to show how it would be prejudiced by consideration of that brief. Moreover, neither parties' closing brief is evidence, but merely a summary of each parties' position. Here, claimant's closing brief was nothing more than her summary of the evidence that had been received and it was consistent with her Position Statement. As such, IRC's motion to exclude consideration of that brief is denied.

The parties' closing briefs and their reply briefs were marked and received as the parties' arguments. The record was closed, and the matter was submitted for decision on February 6, 2026.

## **ISSUES<sup>1</sup>**

Shall IRC fund claimant's request for bathroom modification to remove an accessible shower and install a bathtub?

Was claimant's Individual Program Plan (IPP) process inadequate? As an issue related to claimant's service requests, claimant alleged the inadequate IPP process resulted in IRC's denials. IRC asserted that the law provides a different remedy to address that issue. However, as claimant demonstrated, her IPP inadequacy argument was related to her assertion that IRC reached incorrect conclusions regarding her requests. As such, evidence on this issue was allowed and considered.

## **FACTUAL FINDINGS**

### **Jurisdictional Matters**

1. Claimant recently turned 31 years old. She is an unconserved adult who resides in her home with her mother. She is eligible for regional center services based on her diagnoses of intellectual disability, epilepsy, and cerebral palsy. Claimant also has spastic quadriplegia.

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<sup>1</sup> Claimant sought nine additional services which were resolved prior to hearing. As of the first day of hearing, a tenth request, that IRC fund the installation of a gas wall heater, was still an issue in dispute. On the second day of hearing, claimant withdrew that request and advised that the gas wall heater issue had been resolved via a community services grant. This appeal only concerns these two remaining issues.

2. Claimant's mother sought to convert an accessible shower to a bathtub because of safety concerns, claimant's refusal to use the shower because she preferred using a bathtub, and for claimant's dental hygiene. IRC denied claimant's request for a bathroom modification per a Notice of Action (NOA). The NOA stated there were more cost-effective options available to claimant and that there may be community supports or grants available to assist with home modifications.

3. Claimant timely appealed IRC's denial, and this hearing ensued.

### **Claimant's Request to Admit a Newly Obtained Exhibit**

#### **IRC'S EXECUTIVE DIRECTOR'S RESPONSE TO CLAIMANT'S COMPLAINT**

4. Claimant filed a request to admit a newly obtained exhibit, a letter from IRC's Executive Director, Lavinia Johnson, in response to claimant's mother's Welfare and Institutions Code section 4731 complaint regarding claimant's consumer services coordinator (CSC) and the IPP process. Claimant asserts Executive Director Johnson's response to the complaint constitutes "admissions" that are "directly related to issues relevant in this appeal." IRC did not oppose the request to admit the letter.

5. In her letter, Executive Director Johnson identified the complaint as pertaining to the CSC and claimant's IPP, the "relevant information" she gathered and reviewed, the applicable Welfare and Institution Code sections, and her findings. She notified claimant of her appeal rights, enclosed information about the complaint process, and specifically advised: "Please note that this appeal process is separate and distinct from the Fair Hearing process for regional center services/eligibility." Executive Director Johnson made the following findings in her letter:

- IRC did not comply with Welfare and Institutions Code section 4646, subdivision (h), during the development of the IPP in that IRC did not reschedule the third IPP meeting that was requested. IRC also failed to seek final agreement from the planning team after revisions were made to the IPP document.
- IRC violated Welfare and Institutions Code section 4646, subdivision (i), when IRC failed to send the IPP addendum to claimant and to obtain agreement before implementation.
- IRC violated Welfare and Institutions Code section 4710, subdivision (b), when it failed to send the NOA denying dental funding within five business days of April 14, 2025, when claimant was verbally informed the service was denied.

6. Executive Director Johnson's proposed resolutions to address the findings were (1) providing additional training to IRC staff regarding IPP development and implementation, (2) restructuring the service unit to which claimant is assigned to create two smaller units, and (3) reassigning a new CSC to claimant.

7. Despite her findings and resolutions, Executive Director Johnson did reference the constant communication and implementation of services that IRC provided to claimant, which was consistent with the evidence introduced at hearing.

### **APPEAL PROCEDURES VERSUS COMPLAINT PROCESS**

8. The Lanterman Developmental Disabilities Services Act (Lanterman Act), found in Welfare and Institutions Code sections 4500 through 4885, establishes the

rights and responsibilities of the Department of Developmental Services (DDS), regional centers, and consumers seeking or receiving regional center services.

9. Welfare and Institutions Code sections 4700 through 4731 govern the appeal procedures for regional center matters.

10. Welfare and Institutions Code sections 4710 through 4714 set forth the fair hearing procedures. Welfare and Institutions Code section 4710, subdivision (b), requires a regional center to notify a consumer or the consumer's representative "no more than five business days" after the regional center decides to deny a service request. Welfare and Institutions Code section 4710.5, subdivision (a), permits the consumer or consumer's representative, who is not satisfied with the regional center's decision or action, to request an informal meeting, mediation, or fair hearing. Welfare and Institutions Code section 4711 outlines the procedures when a mediation or fair hearing is requested. Welfare and Institutions Code section 4712 sets forth the fair hearing procedures, including the education and training required of the hearing officers who preside at those hearings.

11. Welfare and Institutions Code section 4731, subdivision (a), allows a consumer or the consumer's representative, "who believes that any right to which a consumer is entitled has been abused, punitively withheld, or improperly or unreasonably denied by a regional center," to file a complaint. Subdivision (b) requires the complaint to be initially filed with the consumer's regional center director who must timely investigate and respond in writing to the complaint. Subdivision (c) allows the consumer or the consumer's representative, who is not satisfied with the regional center director's response, to refer the complaint to DDS, which must respond with "a written administrative decision." Subdivision (d) requires DDS to maintain records regarding consumer complaints. Subdivision (e) states:

This section shall not be used to resolve disputes concerning the nature, scope, or amount of services and supports that should be included in an individual program plan, for which there is an appeals procedure established in this division, or disputes regarding rates or audit appeals for which there is an appeals procedure established in regulations. Those disputes shall be resolved through the appeals procedure established by this division or in regulations.

12. As written, Welfare and Institutions Code section 4731 provides a unique way for regional center directors and DDS to oversee regional center employees and authorizes both regional center directors and DDS to resolve consumer complaints. Things a consumer can complain about are quite broad. In contrast, the fair hearing process is a mechanism allowing individuals to appeal a regional center's determination regarding eligibility or services and requires specific actions prior to the hearing. Unlike a Section 4731 complaint investigation, prior to a hearing, a regional center must provide a Position Statement, exchange exhibits, and identify witnesses. During the hearing, the hearing officer takes testimony under oath, receives documents in evidence, and makes evidentiary rulings. Depending on the issue, a party has a burden of proof, and the standard of proof by which the party must meet that burden is a preponderance of the evidence. The hearings are recorded, after which the hearing officer issues either a final or proposed written decision, which must contain a summary of the facts, identify the evidence relied upon, decide each issue presented, and identify the statutes, regulations, and policies supporting the decision. There are no such prehearing, evidentiary, or decision-making requirements placed on a regional center director or DDS in a Section 4731 investigation.

13. Welfare and Institutions Code sections 4710 through 4714 hearings, even though “conducted in an impartial and informal manner” (Welf. & Inst, Code § 4712, subd. (i)(1)), are much more formal than the complaint process. Moreover, Section 4731, subdivision (e), specifically excludes any disputes concerning the “nature, scope, or amount of services and supports,” such as claimant’s bathroom modification request. Instead, those types of matters are to be decided by the “appeals procedure established in” Welfare and Institutions Code sections 4710 through 4714.

### **RULING ON CLAIMANT’S NEW EVIDENCE**

14. The complaint process and the fair hearing process are two distinct processes with specific procedures governing each, the fair hearing process being the more formal of the two. Claimant cited to no authority, and indeed there is none, that the findings reached during a Welfare and Institutions Code section 4731 complaint investigation are controlling in a Welfare and Institutions Code sections 4710 through 4714 fair hearing. While IRC did not object to the admission of Executive Director Johnson’s letter, which will be made part of the record, the conclusions reached by the Executive Director do not have any tendency to prove or disprove a disputed fact that is significant to the resolution of the issues to be decided in this matter. That letter is not controlling on the issues to be decided herein.

### **Evidence Introduced at Hearing**

15. IRC Program Manager (PM) Kimrosha Saterfield, IRC dental consultant/vendor Rene Zambel, IRC Occupational Therapist Annette Richardson, and claimant’s conservator/mother testified, and documents were introduced. The factual findings reached herein are based on that evidence.

## **POSITION STATEMENTS**

16. The parties' Position Statements set forth their respective arguments.

17. IRC's initial Position Statement asserted it denied the request for a bathtub conversion after its occupational therapist (OT), who conducted an assessment, concluded that an accessible shower should not be replaced with a bathtub and a bathtub should not be used for dental hygiene. IRC's Position Statement set forth the code sections which supported its decision.

18. Claimant's initial Position Statement asserted the bathtub installation was necessary for claimant's health to prevent her institutionalization, citing to the Home and Community-Based Services (HCBS) Waiver for Californians with Developmental Disabilities and IRC's "Purchase of Service Policy." Claimant referenced her dentist's letter which supported the bathtub request as being necessary for dental hygiene and set forth various laws in support of her position.

19. On October 28, 2025, IRC's motion to amend its Position Statement was granted and claimant was afforded an additional day of hearing to address that new evidence. In its Amended Position Statement, IRC now additionally alleged, as a basis for denying the bathtub conversion, that behavioral therapy could assist claimant with her sensory and other behavioral issues related to her resistance during showering and teeth cleaning, and that a mobile hygienist could also assist her with teeth cleaning and desensitization. IRC offered a Functional Behavioral Assessment (FBA) for Applied Behavioral Analysis (ABA) and now agreed with claimant that a portable bathtub, which was one of its suggested alternatives to the bathroom modification, was not a long-term solution, so it was no longer a basis for IRC's denial.

20. On December 2, 2025, claimant's Supplemental Position Statement was received in evidence. IRC's objection to this document was overruled, and the new documents claimant introduced, primarily journal articles, were received in evidence. In her Supplemental Position Statement, claimant again argued that introduction of evidence regarding behavioral therapy improperly expanded the issues mid-hearing. Claimant also argued that the referral for ABA was improper because no licensed behavior specialist evaluated claimant and IRC made no medical referral nor medical assessment. Claimant further asserted that claimant's consistent distress during showering reflected pain and discomfort, not behavioral compliance issues, that literature claimant was now introducing demonstrated that pain in individuals with intellectual disabilities is routinely underrecognized, misinterpreted or mislabeled as behavior, that both claimant's dentist and primary care physician recommended the bathtub conversion, and that IRC's continued refusal to fund the bathtub conversion resulted in claimant having unmet medical and dental needs.

### **ANALYSIS OF CLAIMANT'S "EXPANDING THE ISSUES" ARGUMENT**

21. This case was originally set for a one-day hearing at 1:00 p.m. on June 26, 2025, but did not finish on that day. Instead, the hearing took place over multiple days, several months apart, June 26, 2025, October 14, 2025, October 28, 2025, and December 2, 2025. During that time, IRC continued to evaluate the matter and offered a behavior therapy assessment and a mobile dental hygienist. IRC never changed its position that it was denying claimant's bathtub conversion request as there were safer and more cost-effective ways to address claimant's needs.

22. IRC's offers of additional services did not "improperly expand the issues mid-hearing," as the issue remained whether IRC should fund the bathtub conversion. There is nothing impermissible about a regional center continuing to evaluate a

consumer's service request and offering alternatives after an NOA is filed. Parties routinely resolve matters after NOAs and appeals have been filed and OAH becomes involved, sometimes even during the hearing.

23. Additionally, the NOA referenced laws requiring IRC to be cost-effective when funding services and supports, so claimant was on notice that cost-effectiveness was the primary reason for IRC's denial. While the NOA only referenced the "cost-effective options per IRC's Occupational Therapy/Equipment Consultation dated 7/25/22," that OT report also referenced concerns about the bathtub being a short-term solution due to claimant's mother's ability to remove claimant from the tub should her or claimant's abilities decline. Thus, safety concerns were clearly documented in the OT report.

24. Further, nothing in the Lanterman Act prohibits the introduction of additional evidence at hearing. In fact, Welfare and Institutions Code section 4712, subdivision (a)(2), requires "[a]ny relevant evidence [to be] be admitted," and subdivision (i)(1), requires the fair hearing to be "conducted in an impartial and informal manner in order to encourage the presentation of information and the free and open discussion by participants," and requires hearing officers to "make their best effort to fully and fairly develop the record and create an environment in which all relevant facts, both favorable and unfavorable, are brought out and to engage the parties to bring out the facts." Subdivision (i)(3), authorizes the hearing officer to "assist in bringing out all relevant facts," and subdivision (d)(4)(A) permits the hearing officer to "allow introduction of documents or witness testimony in the interest of justice."

25. Limiting the hearing to only the matters specifically listed in an NOA would render these subdivisions meaningless and courts seek to give meaning to

every word and phrase in the statute to accomplish a result consistent with the legislative purpose. (*California Teachers Association v. Governing Board of Rialto Unified School District* (1997) 14 Cal.4th 627, 634.) Here, the legislative purpose of Welfare and Institutions Code section 4712 is to ensure all relevant facts are introduced at hearing.

26. Accordingly, claimant's argument that allowing IRC to introduce evidence of its offer to provide behavioral therapy and a dental hygienist improperly expands the issues mid-hearing is rejected.

### **Claimant's Individual Program Plans, Addendums, and CDERs**

27. An issue between the parties centered on information recorded in IRC's records and claimant's mother's assertions that the information was inaccurate and/or incomplete. The records will be summarized below along with claimant's mother's statements regarding the inaccuracies contained therein.

### **Claimant's February 4, 2025, IPP**

28. Claimant's February 4, 2025, IPP contained information regarding claimant and the services and supports she receives.<sup>2</sup> The 2025 IPP is currently unsigned as claimant's mother does not agree with parts contained therein, and several addendums have been written, as noted below. Despite there not being a

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<sup>2</sup> IPPs from prior years were also introduced and documented claimant's condition at that time and the services and supports she received. Prior Consumer Development Evaluation Reports (CDERs) were also received.

signed IPP in place, IRC continues to fund services for claimant, many of which were funded after mediations resolved the issues between the parties.

The 2025 IPP documented that claimant participates in the Medicaid HCBS waiver program. She was described as a kind and cheery individual who is very determined in learning how to do things and figuring things out on her own. She lives with her mother and they recently moved to a mountain community.

Claimant is nonambulatory and would require physical assistance in an emergency. It is difficult for claimant to maneuver a walker in the family home due to space limitations. She uses a manual wheelchair for long distances that others maneuver for her. Claimant prefers to be out of the wheelchair as much as possible. She sometimes walks on her knees and uses a gait trainer when outside. Claimant's mother requested a stronger respite worker who is more physically capable of lifting claimant, and IRC was looking into that request.

Per the 2025 IPP, claimant's mother's request for a vehicle modification/lift for easier access getting claimant in and out of the car was still under review. At hearing, PM Saterfield testified that IRC has since funded that request.

Claimant does not have control of her bladder or bowels. She requires physical assistance to complete all of her personal hygiene care. Claimant's mother would like a bathtub so claimant can wash her face and brush her teeth better to help with her oral hygiene. The bathroom remodel request and IRC's referral and responses thereto were documented, as discussed more fully below.

Claimant is spoon-fed by her mother and her food must be cut into small pieces. Claimant is nonverbal and will communicate by using facial expressions, volume, sound, or some gestures. Claimant occasionally displays disruptive behaviors

and resistiveness. Claimant requires constant supervision as she lacks safety awareness. The 2025 IPP noted claimant's dental coverage issues and that she requires anesthesia for dental work/procedures.

### **February 4, 2025, CDER**

29. Claimant's February 4, 2025, CDER documented claimant's intellectual disabilities, noting she suffered from shaken infant syndrome resulting in a contusion and laceration of her cerebrum, loss of consciousness greater than 24 hours, without a return to her pre-existing conscious level. The CDER also contained claimant's other health conditions, special healthcare requirements, and skill development levels. The CDER has a rating score of 1 to 5, with a 1 indicating a most dependent consumer and a score of 5 indicating a most independent consumer. Claimant had CDER scores of 1 in several categories, including toileting, bladder and bowel control, personal care, safety awareness, and verbal communication. She was noted to have no bladder or bowel control, to not be toilet or habit trained, to not perform or assist with personal care activities, to require constant supervision, and to not use words to communicate, doing so through movement, smiling, and making eye contact.

### **Emails and IPP Addendums**

30. A March 3, 2025, email from claimant's mother sent "[i]n preparation of [claimant's] second IPP meeting on March 5, 2025," set forth "a list of services and support needs to ensure [claimant's] safety at home and active inclusion in the community." Claimant's mother wrote further:

After studying the Lanterman Act, I have identified additional necessary services and supports. Due to a lack of clear information from the Regional Center regarding the

scope of available resources they are empowered to provide my previous requests and decisions were less informed than they should have been.

Over the past five years of IPP meetings I have felt pressured to focus solely on previously requested services and supports that remain unresolved - either not approved or denied. As result, I refrained from requesting additional services and supports to avoid further complicating the process. However, after reviewing the Lanterman Act, I now understand the legal process required for serviceand [*sic*] support approvals and denials, and I no longer feel compelled to settle for anything less than what my daughter is legally entitled to receive.

Below is a comprehensive list of both previously requested and newly identified services and supports based on [claimant's] needs:

Claimant's mother then made the following requests in her email: (1) vehicle lift - Milford person lift; (2) shower to bathtub modification, (3) day program at [name of program], (4) respite services - issues with provider, (5) housekeeping assistance, (6) snow removal and weed abatement, (7) ramp/lift for wheelchair access, (8) transfer switch and installation (for generator), (9) permanent heating solution for claimant's room, (10) community activities and support needs, and (11) dental expenses not covered by Denti-Cal. Claimant's mother then identified her concerns regarding the IPP process.

31. A May 20, 2025, IPP addendum identified the phrases in the IPP that claimant's mother wanted changed. She requested the phrase indicating claimant enjoyed being in the bath be removed. She requested the sentence regarding claimant not being satisfied with her current bathing methods be reworded to reflect claimant's mother's comments that claimant should not have to bathe in a dog bath as she deserves dignity, the portable tubs leak and flood the bathroom, and the portable tubs are an additional expense to replace. The addendum was not signed.

32. A second May 20, 2025, IPP addendum documented that claimant's mother would like meal prepping to be removed from the homemaker service request. The addendum was not signed.

33. A third May 20, 2025, IPP addendum documented that claimant and her mother were not interested in social recreation coaching and would proceed with social recreation reimbursement. IRC began the referral process through the portal. The addendum was not signed.

34. A fourth May 20, 2025, IPP addendum documented that spastic quadriplegia should be included in the list of claimant's diagnoses. The addendum was not signed.

35. A May 22, 2025, unsigned IPP addendum documented that the Milford vehicle lift was approved, the service request was submitted, and it was pending final approval.

36. A June 2, 2025, unsigned IPP addendum documented that the social recreation reimbursement was submitted and was pending final approval.

37. A June 5, 2025, unsigned IPP addendum documented claimant was authorized to receive the Milford person lift/vehicle modification, at an estimated cost of \$8,555.90.

## **Bathroom Remodel Request**

### **KAISER DENIAL OF BATHTUB REQUEST**

38. A July 12, 2022, letter from Kaiser Permanente, titled "NOTICE OF ACTION About Your Treatment (Benefit Denial)," stated that Tracey Lynn Thompson, M.D., had "asked Kaiser Permanente to approve E 1399 - shower bathtub modification." The request was being denied because it was not a covered benefit as modifications to the home are a specifically excluded benefit under the Medi-Cal Managed Care Health Plan. Of note, Dr. Thompson's letter referenced in the Kaiser Permanente letter was not introduced. OAH issued an Order advising claimant no such letter was uploaded to Case Center and allowing claimant to upload it if one existed, but claimant advised she did not possess that letter. Claimant's mother testified she never saw Dr. Thompson's letter; she only saw Kaiser's denial letter.

### **IRC OCCUPATIONAL THERAPY CONSULTS**

39. Ms. Richardson conducted IRC's occupational therapy equipment consultation. She has a bachelor's degree in occupational therapy, and has been employed by IRC for more than 24 years. She described her job duties and authored reports and notes that were introduced at hearing. Ms. Richardson first met claimant in 2022 when she conducted her consultation at claimant's home. An IRC physical therapist was also present during that visit.

## **INITIAL OCCUPATIONAL THERAPY EQUIPMENT CONSULTATION**

40. Ms. Richardson's July 25, 2022, Occupational Therapy Equipment Consultation report documented that claimant lived in the home with her mother, having moved there approximately two months earlier. A woman with Lou Gehrig's disease previously lived in the home, so it had had many modifications so as to be accessible for her. One such modification was the bathroom with a widened doorway and a roll-in shower with a two and one-half inch foldable dam and fold down seat.

41. Ms. Richardson reported that claimant "was observed moving through the house in tall kneel" and demonstrated good balance moving through the home. Claimant transitioned easily from sitting to tall kneel and claimant's mother reported that claimant can walk when supported and guided from behind.

42. Claimant's mother wanted to replace the shower with a bathtub. In their previous home, claimant enjoyed taking her bath and claimant's mother would help claimant step into the tub and then help her lower herself down. Claimant's mother advised that claimant could easily step over the side of the tub with support and enjoyed putting her face in the water. When it was time to exit, claimant's mother would turn claimant so her back was facing claimant's mother and would prompt claimant to stand. Claimant completed the transfer with minimal assistance.

43. Claimant's mother had been trying to give claimant a shower since they moved into their new home. Initially, she tried to place claimant on the fold-down shower bench screwed to the wall, but claimant panicked. The bench is a straight metal seat with no supports or securement. It was unknown whether claimant did not like the seat, felt unsafe on it, or if her reaction was behavioral. Claimant now cries and fights every time claimant's mother tries to get her into the shower.

44. Claimant's mother believed claimant did not like the handheld shower head. Claimant's mother purchased a blowup tub in an attempt to bathe claimant, but the tub was too big for the shower and was difficult to drain. Using the shower also created a mess as water splashed everywhere and there were no tub sides to catch the water spray. Claimant's mother believed claimant was afraid to sit on the aluminum bench, so she tried bathing claimant while sitting on the shower floor. Every day it was more difficult to bathe claimant and claimant's mother did not know if it was because claimant was afraid of the folding shower chair or the handheld shower head.

45. The OT report documented the six options discussed and claimant's mother's responses to those suggestions. Option 1, a shower chair with a seatbelt where claimant can be placed in it in her bedroom and rolled into the shower, was rejected by claimant's mother because claimant had been taken out of her day program because the program insisted on confining her in a wheelchair and claimant would rock and bang until she was bruised or would pull out of her wheelchair. Because of this, claimant's mother did not think the shower chair with a seatbelt would resolve the issue. However, Ms. Richardson wrote that it should be a viable option because time spent in the shower chair was much shorter than time spent in a wheelchair, claimant would not be alone, and this was a "possible long-term solution to the problem."

46. Option 2, a higher shower dam, by replacing the current one with a four and one-half inch collapsible dam, was rejected by claimant's mother as it would not allow claimant to soak any better than she can now and would not solve the water splashing issue.

47. Claimant's mother's concern with Option 3, removing the shower bench, was that claimant may still not tolerate the shower. If this suggestion were implemented, the screw holes would need to be filled.

48. It was determined that Option 4, building a waterproof "tub side" across the front of the shower, was not possible after consultation with a contractor.

49. Claimant's mother was open to Option 5, exploring the possibility of purchasing different foldable tubs. As noted above, IRC now agrees that a portable tub is not a viable option.

50. As to Option 6, removing the shower and inserting a tub, no estimates had yet been submitted. Ms. Richardson was worried this option was a short-term solution because it was not known how long claimant's mother would be able to assist claimant in and out of the tub, although claimant's mother reported she has no difficulty doing so and that claimant does most of the work.

51. Ms. Richardson concluded in her OT report that trying different, smaller portable tubs should be explored and that "[f]rom a clinical perspective, it appears that a rolling shower chair with a simple lap belt could be used to roll [claimant] into the shower." Installation of a four and one-half inch collapsible shower dam or the use of towels could better control the water spray. "These options should be tried before replacement of the shower is considered, as they are the more cost-effective options available to the family, should meet claimant's needs, and offer a more long-term solution should [claimant's or claimant's mother's] abilities decline."

## **DENTIST'S LETTER RE: USE OF THE BATHTUB FOR DENTAL HYGIENE**

52. Elmer Hilo, D.M.D., CEO/Dentist of HiloDent, claimant's dentist, authored a letter on September 5, 2024, with attached billings for his treatments. In the letter, Dr. Hilo noted claimant's diagnoses of intellectual disability, cerebral palsy, and epilepsy disorder. Claimant "requires special considerations in maintaining her hygiene and overall dental health." He described the difficulty managing patients with developmental disabilities and that his office offers dental care under sedation which is difficult to find elsewhere. Dr. Hilo wrote further:

As much as we can maintain her dental care professionally, we need the help of families [*s/c*] at home to maintain her oral hygiene. Adjunct items like floss, toothbrushes, waterpiks, and/or extra fluoridated toothpaste all can be used to facilitate her oral care, however every patient may require special considerations and items. In her case, she can only be cleansed in her mouth if she has a bathtub. This letter is in support for [claimant] in obtaining this medically and dentally necessary item in order for her to maintain her oral hygiene.

## **OCCUPATIONAL THERAPY EQUIPMENT CONSULTATION ADDENDUM**

53. In a June 12, 2025, addendum performed to assess claimant's current need for the bathroom model given the previous recommendations made, Ms. Richardson considered additional information provided by claimant's mother in their telephone conversation.

54. Claimant's mother reported the problem "has changed." She initially was looking for a solution to bathe claimant in a bathtub. She tried five different portable tub models and reported that they are flimsy, break, and difficult to empty. She does give claimant a shower "from time to time."

55. Ms. Richardson noted that when "considering altering a shower into a bathtub, safety must be considered. Shower transfers are considered easier, whether the consumer is being helped to walk into the bathing area or a shower chair is used." The lower lip of the shower allows easier access to bathing should claimant's or claimant's mother's physical abilities change due to age or injury. Another consideration was that care providers are often difficult to find. Transferring in and out of showers is easier and safer than assisting someone in and out of a bathtub. Claimant's mother may be limiting an already small pool of care providers because they are less willing to perform more difficult transfers.

56. Claimant's mother advised she was having difficulty with claimant's oral care and was searching for oral care solutions. She described claimant as being unwilling or unable to try anything new or to change. She reported that she has never been able to brush claimant's teeth.

57. Claimant's mother was now also stating the bathtub was needed to address claimant's oral care. She reported claimant's mouth was "so bad" and she provided the letter from Dr. Hilo who wrote that claimant "can only be cleansed in her mouth if she has a bathtub." Ms. Richardson documented that Dr. Hilo's letter "did not indicate how the bathtub would be used to meet [claimant's] oral care needs. He listed several possible oral care solutions that he reports will not work for [claimant]."

58. Ms. Richardson wrote that based on the care provided to clients in skilled nursing homes and in some consumer homes, “the use of Xylitol after meals might be considered. Xylitol can be used to protect teeth, to protect gums, and even to address dry mouth.” Ms. Richardson noted that it was her “understanding that no dental tools are necessary when using this approach.” She recommended “consulting with the IRC dental hygienist regarding the use of Xylitol, and if it is appropriate for [claimant].”

59. Ms. Richardson wrote further that, as she previously reported, during her 2022 visit, she was unsure as to the cause of claimant’s resistance to showering as described by claimant’s mother. But, as of her 2025 telephone conversation with claimant’s mother, “it appeared clearer that [claimant’s] resistance is a learned behavior. Sensory issues may have made it difficult for her to participate in oral care.” Ms. Richardson wrote that many IRC consumers “also have a challenging time with change because of their level of intellectual disability” and noted that “behavioral therapy may be considered to address these concerns.”

60. Ms. Richardson also considered occupational therapy to address claimant’s activities of daily living (ADL). However, based on claimant’s age and her mother’s report of claimant’s restrictive behavior, Ms. Richardson did not recommend ADL training.

61. Ms. Richardson concluded her 2025 report by noting:

Bathtubs are typically not considered an oral care solution. Even if meticulously cleaned, using solutions that are safe for ingestion, bathtubs may still contain bacteria. After a body is introduced into the water, even if the body is clean upon entry into the water, there are concerns with drinking

water that has been in contact with the entire peritoneal and rectal area.

### **Ms. RICHARDSON'S ADDITIONAL TESTIMONY**

62. Ms. Richardson explained that she was aware that claimant was asking for something (a bathtub conversion) that would be difficult to get, so she made recommendations for things she thought would address claimant's needs. Moreover, based upon her experience at IRC, she also had safety concerns because as parents age and consumers grow, it is more difficult to lift consumers. She is also aware that individuals, such as claimant, who have traumatic brain injury diagnoses, are at higher risk for strokes and falls, which also factored into her decision-making. Claimant's IPP also documented that claimant was often resistive to getting out of the tub, so Ms. Richardson had concerns regarding claimant's mother's ability to lift claimant out of a tub if one were installed.

63. Ms. Richardson described her observations made during her 2022 visit, and what she learned during her 2025 call with claimant's mother, both of which were consistent with her reports. Some of the reasons given for installing the bathtub were that claimant "did not like the shower at all," over time was becoming more resistant to the shower, liked taking a bath, and did not like the shower bench.

64. Ms. Richardson expressed three concerns regarding removing the shower and replacing it with a bathtub: (1) claimant was at a high risk of falling in the tub, (2) claimant's mother was a greater risk of hurting herself when placing claimant in, or removing claimant from, the tub, and (3) something could happen in the future such as claimant suffering a stroke, or getting too heavy for claimant's mother to lift, or claimant's mother getting older or suffering an injury and not having the ability to lift

claimant, and deciding she wanted to remove the bathtub and reinstall a shower. As to the third concern, Ms. Richardson noted that the 2025 IPP documented claimant had a 35-pound weight gain from the time Ms. Richardson first visited her home in 2022.

65. Ms. Richardson testified about the various options suggested and claimant's mother's responses thereto, as noted in her report. She also described the various types of shower chairs that are available. Claimant's mother rejected the shower chair suggestion because claimant did not like being in a wheelchair, but Ms. Richardson said that does not mean IRC could not find a chair that would work for claimant. However, claimant's mother "did not want to go there." Further, a shower chair is less restrictive than a wheelchair and the bathroom was large enough for a shower chair to be used. Ms. Richardson understood why someone with motor issues would not like the bench chair and agreed it could be removed.

66. Ms. Richardson has no information to refute any of claimant's mother's claims that the shower chair would not work. She believed what claimant's mother was reporting. However, she explained that in her experience, IRC has "never failed to find a [shower] chair." She also explained that a Hoyer lift cannot be used to get someone into a bathtub, but there are wall-mounted lifts that could be used in the bathroom.

67. Ms. Richardson explained that when consumers try various options that do not work, it "gets some credibility" that those options are not viable ones so then others can be explored. She does not believe the portable tub is a viable option but was making suggestions to find something that would work. Claimant's mother reported trying five different portable tubs, none of which worked. She has no reason to dispute claimant's mother's statements in this regard. Again, IRC has now agreed a portable tub is not a viable option.

68. Ms. Richardson testified about a third time she interacted with claimant when she visited claimant's home. She did not document this encounter, which she said was an exception because she typically documents all her visits, although she acknowledged that her notes "do not always make it" into her reports. She was "worried about the whole situation," so stopped by claimant's home on her way home from work, as Ms. Richardson's route home takes her near claimant's home. Ms. Richardson was trying to be supportive. She was trying to gather more information to see if she had made the right decision, but nothing she learned changed her mind.

69. Ms. Richardson first learned of the dental reason for the bathtub request from Dr. Hilo's first letter. She discussed that letter with claimant's IRC CSC. Ms. Richardson did not recall exactly how claimant's mother described using the bathtub for dental hygiene, and "thinking outside the box," after reviewing Dr. Hilo's letter, she thought there might be "some kind of Rubbermaid container" that is filled with water in which claimant could place her face while in the shower to address her dental issues. However, nothing in Dr. Hilo's letter changed Ms. Richardson's mind about installing a bathtub, which she continues to believe is not a safe choice, again noting it is her job to keep claimant and her mother safe, and if the bathtub is approved, "it will be on [Dr. Hilo] but it is not going to be on me."

70. Nothing in Dr. Hilo's letter or what she learned during her call with claimant's mother changed Ms. Richardson's mind regarding her recommendation not to convert the shower to a bathtub. Ms. Richardson's suggestion regarding Xylitol was simply because she was "trying to think outside the box."

71. Ms. Richardson was asked about claimant's abilities to lean forward and to swallow, and her refusal to allow anything to be placed in her mouth, all of which would make her suggestions about a small Rubbermaid tub for her face or using

Xylitol not viable options. However, she testified there were ways to use straws or ways individuals in skilled nursing facilities were given dental care that could be tried.

72. Ms. Richardson was asked about the bathtub being a want or need and how she could opine a bathtub was not needed when claimant's physician and dentist opined it was needed. Ms. Richardson explained that IRC gets physician recommendations all the time which it evaluates; those recommendations do not mean the request will be granted. She also testified that want/need is a term used in reference to eligibility for community support grants.

73. Ms. Richardson was also asked about claimant's inability to regulate her body temperature and agreed that being in a shower could make her cold. She said claimant could put a ceramic heater in the shower for warmth, and when asked about the water that gets everywhere in the bathroom with the shower, said there were shelves in the bathroom on which the heater could be placed. Claimant could also use a handheld shower head which could be placed behind the shower bar which can provide continuous water. This would alleviate the "being cold in the shower" issue.

74. Ms. Richardson also testified about various behavioral trainings that could be provided to claimant to assist her with using the shower and tolerating the new shower equipment, such as the shower chair.

75. On cross-examination, Ms. Richardson acknowledged that she has testified approximately 10 to 15 times; 80 percent of which she has testified the service should be denied. Of note, this inquiry did not establish that Ms. Richardson was a biased witness. If IRC agrees to fund a requested service, no hearing takes place. However, if IRC denies a funding/service request, and a fair hearing is sought, the

individuals, such as Ms. Richardson, who rendered opinions that led to the funding/service request being denied would testify.

76. In her closing argument, claimant asserted that Ms. Richardson offered conflicting testimony and provided cites in her brief. However, the testimony claimant cited in her brief did not conflict and Ms. Richardson's testimony remained consistent. On balance, Ms. Richardson presented as a credible witness who tried her best to help claimant and was genuinely concerned for her and her mother's safety.

### **BATHROOM PHOTOGRAPHS, BATHTUB MODELS, AND ESTIMATES**

77. Several photographs of claimant's bathroom depicted its current configuration which was consistent with what was documented in the records and with witnesses' testimony. Other photos showed portable tubs in place.

78. Versions of shower and bathtub models depicted the different types of showers and bathtubs that were considered and/or discussed.

79. Estimates for performing the bathroom remodel ranged from \$9,500 to \$25,000.

80. Email communications between IRC and claimant's mother documented the various models, costs, and options discussed.

### **DENTAL CONSULTATION REGARDING BATHTUB**

81. IRC also had Ms. Zambel review the request to use the bathtub for dental hygiene. Ms. Zambel has a Bachelor of Science degree in dental hygiene and holds a registered dental hygienist license. In 2005 she received her registered dental hygienist in alternative practice license which specifically authorizes her to work with special

needs patients. Ms. Zambel previously worked for IRC from 2003 until 2020 as a dental coordinator/consultant and has been an IRC vendor since 2020. In those roles, she collaborates with case workers, families, patients, and dentists; reviews treatment and insurance plans; and makes recommendations regarding funding or resources. She never met claimant but was asked to review claimant's records.

82. Ms. Zambel's Dental Referral Form established her authorization to work on claimant's matter. That form identified claimant's dentist, noted claimant's diagnoses, medications, health history, insurance, and that she required general anesthesia/sedation for dental procedures. The reason for the referral was: "requesting help with funding for dental treatment and/or general anesthesia for consumer."

83. Ms. Zambel testified that the referral was originally established to allow her to review a different funding request from claimant. Since the referral did not expire until June 30, 2025, it also allowed her to consult on the bathtub request. Based on claimant's counsel's cross-examination of Ms. Zambel, claimant appeared to suggest the referral was insufficient for Ms. Zambel to consult on the bathtub request. However, no legal argument was offered to support that position, IRC had identified Ms. Zambel as a witness, and the language of the referral was broad enough to allow Ms. Zambel to consult on this matter since one of the bases that funding for the bathtub was being requested was to aid with claimant's dental treatment.

84. Ms. Zambel reviewed Dr. Hilo's letter and testified it was her understanding one reason claimant was requesting the bathtub was to use it for dental hygiene. She contacted Dr. Hilo's office to inquire about the letter. Ms. Zambel spoke with staff who told her Dr. Hilo wrote the letter because claimant's mother told them claimant relaxed while in the bath.

85. Ms. Zambel testified that using a bathtub for dental hygiene was inappropriate, stating it was “absolutely disgusting,” because it would mean claimant was putting dirty bathwater in her mouth. She also explained that claimant could be on her menses, could defecate or urinate in the bathwater, and that the use of that bathwater for dental purposes was “very unhygienic.”

86. Moreover, Ms. Zambel explained that there must be mechanical removal of plaque from teeth by brushing or flossing; simply swishing water is insufficient. While Ms. Zambel agreed that being in the bathwater may relax claimant and is a method care facilities use to provide relaxation to individuals, this is not the same thing as claimant placing her mouth in the bathwater. There is no need for claimant to put her mouth in bathwater as a means of dental hygiene. Even if the bathwater were “plain and clean,” that, alone, is not going to clean the mouth.

87. Ms. Zambel did not have an opinion regarding the use of Xylitol.

88. Ms. Zambel was asked to explain the differences between a dental hygienist and a dentist during cross-examination. She described the training both receive and explained that while dentists do provide oral care for preventative measures, they do “very little” as compared to dental hygienists and do not provide preventative measures in patients’ homes like dental hygienists do. Dental hygienists can also do deep cleanings, but not ones that require anesthesia.

89. Claimant’s 2025 IPP documented that Dr. Hilo was going to provide dental care for claimant at her February 2025 dental appointment “due to health/safety concerns. [Claimant] ideally requires anesthesia for dental work/procedures to cooperate with the dentists, however, Loma Linda and Redlands Dental have not accepted [claimant] due to health and safety guidelines that they

must follow regarding clients' diagnoses and procedures." The 2025 IPP noted that claimant's mother requested assistance in obtaining dental care and this was why IRC "has reached out to the IRC dental consultant for guidance and assistance." Presumably, this was the matter Ms. Zambel was initially consulted about as referenced in her March 2025 dental referral discussed above.

90. During cross-examination, claimant also asked Ms. Zambel about the number of times she has testified on behalf of IRC. However, as with Ms. Richardson, that inquiry did not establish that Ms. Zambel was a biased witness.

### **DR. HILO'S SUPPLEMENTAL LETTER**

91. In response to Ms. Zambel's testimony regarding her discussions with Dr. Hilo's staff, claimant was permitted to introduce a supplemental letter Dr. Hilo wrote on July 30, 2025, addressed "To Whom it May Concern." The letter contained the same two paragraphs as Dr. Hilo's original letter, but he added a third paragraph which stated, as written in original:

She has extreme difficulty having her voluntarily put her oral cavity and or face in the water due to her behaviors and disabilities (which is also the only way to get her to open long enough for proper oral care). However, when inside a bathtub, it provides a calming environment for the patient in which she can submerge her body and mouth in the water; this allows her to rinse her mouth appropriately because she can blow "bubbles" in the water and also have her open meaningfully to provide the proper oral hygiene services, like toothbrushing and/or rinsing. Any other

atmosphere, the patient is unwilling to keep her mouth open to provide any oral hygiene services. Being in the water allows her to rinse her mouth appropriately and provides an environment to promote better oral hygiene. One may argue that the water in the bathtub may be unsanitary for her mouth, but given the amount of volume of liquid that the bathtub can hold, any unsanitary liquids or bodily fluids to be significantly detrimental to her health is negligible; the mother can also be strategic with her hygiene, for example, she can be cleansed first and then water drained and refilled with clean water as the mother sees fit, etc. Behavior management with the special needs population, especially to patients like [claimant], can vary immensely from person to person. Some people require hand holding, desensitization, and a lot of coaxing, while others require positive reinforcement or other special items like ipads or stuffed animals to help them create the ambience that will be conducive to managing their behaviors. In this case, the special item [claimant] requires is a bathtub in which can help with numerous health driven goals like managing her overall hygiene and her oral hygiene. Since they moved recently to another home that did not have a bathtub, it was evident in our subsequent dental appointments that her dental hygiene proportionally declined with moderate to severe amounts of calculus and plaque.

## **XYLITOL ARTICLE**

92. A 2010 article published in *Special Care Dentistry*, titled "Oral mutans streptococci levels following use of xylitol mouth rinse: a double-blind, randomized, controlled clinical trial," evaluated the effect of Xylitol rinse on mutans streptococci (MS) levels in the mouth. The article documented the concerns with dental caries, an infectious disease of the teeth involving proliferation of bacteria, most notably MS, and noted high rates of untreated dental caries among residents of long-term care institutions was well documented. Xylitol, a natural occurring sugar substitute, has been shown to interfere with dental caries, and has the potential to control dental caries among the institutionalized elderly. However, chewing gum and candy may not be practical for bedridden and frail elderly adults. In those situations, an aqueous solution of Xylitol may be useful either self-applied as an oral rinse or swabbed on the teeth by a caregiver. The article documented the study conducted with 105 subjects with high salivary MS levels who were randomly assigned to one of three groups. The results of the study showed that Xylitol rinse and chewing gum caused a similar but statistically insignificant reduction in MS levels in the mouth, and recommended future studies on the use of Xylitol.

## **LETTER FROM CLAIMANT'S PHYSICIAN RE: BODY TEMPERATURE**

93. A March 11, 2025, letter from claimant's primary care physician, Dr. Thompson, addressed "To Whom it May Concern," was written "at the request of [claimant's] caregiver" to "verify that [claimant] lacks the ability to regulate her body temperature and relies on external sources such as heating and [air conditioning]."

## **PM SATERFIELD'S TESTIMONY**

94. PM Saterfield described her education and background. She has been employed by IRC for 23 years, the last five years as a PM.

95. She described various services IRC has funded for claimant including the following: IRC funded a vehicle conversion by placing a lift in the car to assist lifting claimant in and out of the car. IRC agreed to fund a beach chair to assist claimant getting around, but claimant has yet to receive it given reimbursement and retailer issues. Many services have been funded by IRC as the result of mediation.

96. PM Saterfield also described the services that have been offered since the NOA was issued, including behavioral and dental hygienist services. Claimant's mother has not accepted those offers. In support of PM Saterfield's testimony, the August 1, 2025, email from Jennifer Cummings, IRC's Program Administrator, Fair Hearings and Legal Affairs, to claimant's mother was introduced which stated:

As discussed, I'm sharing information about a service provider that we have available to conduct a Functional Behavioral Assessment (FBA) for Applied Behavioral Analysis (ABA). ABA can address many areas such as challenging behaviors, communication skills, social skills and adaptive living skills. Behavior Analysts are Board-Certified. The contact information for the service provider, Ayaa Behavioral Health, is listed below along with their website.

I know at some point IRC also offered services with a dental hygienist. In addition to ABA, I'd like to let you know again that IRC can send a Registered Dental Hygienist (RDHAP)

with experience working with individuals with developmental disabilities to your home to provide dental cleanings. They can also work on desensitization to the tooth brushing process and assist you and [claimant] with performing dental treatments. A [d]ental hygienist can provide cleanings periodically, between visits with the dentist, to help with oral hygiene.

The email asked claimant's mother to reach out to IRC if she was interested in either service and provided contact information for the ABA service provider.

97. PM Saterfield testified that given the additional information received during mediations and at this hearing, she believed the behavioral services assessment recommendation and the dental hygienist recommendation were good ones. She explained that often additional information is obtained which results in additional services being offered. Although PM Saterfield testified that the dental hygienist recommendation was based on Dr. Hilo's supplemental letter, she was unable to explain why Ms. Cummings's email offering dental hygienist services was sent nine days before Dr. Hilo's supplemental letter, explaining that she was not present for the discussions that led to the email being sent, but noted that Ms. Richardson's June 12, 2025, supplemental report referenced consideration of behavioral therapy.

98. PM Saterfield was also unable to explain the Title 19 notes documenting a July 21, 2025, entry by the CSC for an ABA referral request as she was not part of those discussions, but again noted that Ms. Richardson's supplemental report referenced behaviors so perhaps that was the basis for the referral. Moreover, an ABA referral would mean that a qualified behavior specialist would assess claimant and determine if ABA services were appropriate.

99. PM Satterfield did not know the cost for the behavior therapy assessment or ABA, and did not know if those costs exceeded the cost for the bathroom modification claimant sought. She explained that costs are determined after assessments are made, available resources are considered, and it is determined that the service meets the consumer's needs. IRC does not first determine how much the service will cost before it makes its referral for an assessment.

100. PM Saterfield explained why claimant's request for services took such a long time to address and why there were gaps in the IRC records. Claimant's former CSC left IRC in 2023, so there was not consistent case coverage until 2024 when the new CSC was hired. During the time there was not a CSC, claimant's case was assigned to PM Saterfield, but she was not "covering" the case. She agreed it took a long time to address claimant's mother's requests and she apologized to her for the delay when she first spoke with claimant's mother. PM Saterfield testified that IRC's workload and fewer employees contributed to the delay. However, once the new CSC was assigned, IRC "went ahead full speed" on claimant's mother's requests. She said a letter would have been/should have been generated from IRC's Case Control to claimant's mother informing her of the new CSC assignment.

101. PM Saterfield described the rationale for IRC's denial of the bathroom modification, which was based on Ms. Richardson's findings, including IRC's determination there were more cost-effective ways to address claimant's needs, and that a bathtub was not a long-term solution because of concerns regarding claimant's mother's ability to lift claimant from a bathtub over a long period of time.

102. She was also asked about the dental outcome goals in claimant's IPPs. PM Saterfield agreed there was no change in the outcomes over time, other than there being some minimal progress in the 2023 IPP.

103. PM Saterfield described how claimant's mother disagreed with wording in the 2025 IPP leading to the many addendums. Claimant's mother initially signed the IRC35c form for the 2025 IPP, but then sent emails, which PM Saterfield recalled being about her disagreement with the IPP wording and services, but did not recall her claiming she had been misled. However, when shown those emails, PM Saterfield acknowledged that was claimant's mother's contention. Even though claimant's mother did not sign the 2025 IPP, IRC continued funding services. As of this hearing, there is still not a signed 2025 IPP in place.

104. PM Saterfield explained that the Medicaid waiver allows federal funds to be used to pay for regional center services.

105. As with the other IRC witnesses, the number of times PM Saterfield has testified for IRC did not establish bias.

### **CLAIMANT'S MOTHER'S TESTIMONY<sup>3</sup>**

106. Claimant's mother testified about her daughter's diagnoses, developmental history, current needs, and services. She described claimant's resistance to various items and how "her life revolves around music."

107. Claimant's mother described the difficulties with using the shower: water gets everywhere despite her best efforts, she fears claimant will fall, claimant tries to lean forward or will thrash her head back, claimant hits the side where the bar is

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<sup>3</sup> Claimant's mother provided testimony regarding the wall heater request, but as that issue is no longer part of this hearing, it will not be summarized herein, nor will the wall heater documents be summarized herein.

located, and she has bruises from sitting on the shower bench. Claimant's mother feels she is forcing her daughter to do something she does not want to do, and claimant's mother gets wet as she tries to shower claimant.

108. The current shower does not work. Claimant gets bathed, but she is cold, it is painful, she is uncomfortable, and she now has other health issues, her dental issues, that have become a problem because she is not able to put her face or mouth in the water as she can with a tub. Claimant's mother also described the dimensions of the shower and how the prior owner built the walls to fit the tub, so the walls are not the same size.

109. Claimant's mother testified that she made the request to modify the bathroom before she even moved into the house. She was running out of time to purchase a home and this home "seemed perfect at the time" and she thought IRC should handle any modifications necessary so she made the request.

110. Claimant's mother described how if claimant gets too cold in the shower she will curl up in a fetal position. This requires claimant's mother to hold claimant with one hand and shower her with the other. Claimant will also curl as tight as she can into a corner of the shower wall to protect herself from the cold. As such, claimant's mother tries to bathe her daughter during the warmest part of the day.

111. Claimant's mother explained that water spraying from the shower is not as warm as water in a bathtub would be for claimant. She described the numerous portable tubs she tried and how none worked. Of note, IRC now agrees this is not a viable option.

112. Claimant's mother has not used a shower chair because claimant "would get very upset, angry, and thrash" because she does not want to sit in it. It is more

difficult to wash her in a shower chair than in a bathtub. She described claimant's independence and how she wants to make choices for herself. Claimant does not like to be tied down and in a shower chair she would need to be tied down.

113. Claimant's mother must get in the shower with claimant to bathe her. Claimant is crying and does not want to be in there. She is cold, and is "curled up tight." It is hard to wash her and hold her so that claimant will not hurt herself or fall off the bench.

114. Claimant prefers to be in a bathtub. Claimant's mother explained that despite her developmental disabilities, claimant is "cognizant enough to be able to make choices for herself." Claimant wants to be involved in the decision-making. "She is not mindless, she absolutely knows what is happening around her." Claimant's mother has always allowed claimant to make choices and having to use the shower has "been very dehumanizing for [claimant] and me." Claimant's mother described the ways claimant will resist using the shower. Claimant never pulled her hair or banged her head on the wall when in the bathtub in their former home. She also explained that "it is well documented" in IRC's records how cold will trigger claimant.

115. Claimant's mother testified that Ms. Richardson's report contains many inaccuracies and omissions. She told Ms. Richardson about, and described at this hearing, the incident at claimant's day program where she was locked in a room and left strapped in her wheelchair screaming which led her to suffer bruises and pull her hair out, but that is not in Ms. Richardson's report.

116. Ms. Richardson's interpretations of their discussions is also inaccurate, especially her description of how claimant's mother places claimant in a bathtub. She never told Ms. Richardson that she gets behind claimant and steps into the bathtub

with her, this is something claimant's mother has never done. Of note, Ms. Richardson's report does not contain that description; instead the report states: "Mom would help her step into the tub and then help her lower herself down." Ms. Richardson's summary was consistent with claimant's mother's testimony noted below.

117. Claimant's mother described how claimant gets in the tub, acknowledging that claimant cannot stand by herself. Claimant's mother stands next to the tub holding claimant by the arms with her arms under claimant's elbows. She has claimant step over the side and sets her down. Claimant's mother does not lift claimant into the tub because she wants her to choose to get into the tub. Claimant will step one foot over the tub and then the other foot and once she is in, claimant's mother will tell her to sit and claimant will bend her knees so she can slide down into the water. Claimant sits in the tub cross-legged. Claimant's mother gets claimant out of the tub "in the opposite manner I got her in." She turns claimant sideways so her back is towards claimant's mother's front, puts her arms under claimant's arms in the same way as she puts her in the tub, claimant will try to stand by pushing with her feet on the floor for leverage to push out. This is the way claimant's mother has been placing claimant in and out of the tub for the past 30 years.

118. Claimant's mother also said that Ms. Richardson's weight of claimant at 145 pounds is inaccurate as claimant weighs 119 pounds. However, she acknowledged she told Ms. Richardson that she was guessing at claimant's weight when she gave her a number. As such, it appears Ms. Richardson's number was the one claimant's mother gave her. Moreover, Ms. Richardson testified about weights she obtained from IPP reports. In fact, the 2025 IPP lists claimant's weight as being "145."

119. Ms. Richardson told claimant's mother that the bathtub request was a "process of elimination," and she needed the most cost-effective solution. She told claimant's mother she "needed to exhaust more avenues."

120. Claimant's mother described all the portable tub options she tried, the one Ms. Richardson suggested, and the ones she discussed with Ms. Richardson. None of these attempts and discussions are in Ms. Richardson's report. Of note, as discussed above, IRC withdrew its position that a portable tub must be used, agreeing that this was not a viable option.

121. Claimant's mother is "highly offended by the mischaracterization of [claimant's] communication being behavior issues." Claimant does not have behaviors; she is communicating the pain she is in when using a shower. Because of her body regulation issues, she is also in pain in the shower because she is cold.

122. Claimant's mother is offended by Ms. Richardson's opinion that claimant may benefit from behavioral therapy because it means IRC "came to no other conclusion than what [claimant] is doing is a learned behavior" and that is not the case. It is not a learned behavior, it is the way claimant is communicating her discomfort and being cold. Ms. Richardson's report does not consider that how claimant responds to being in the shower is how she is communicating that she is uncomfortable and cold and claimant's mother is forcing claimant do something she does not want to do. It is claimant's communication method, and she "does not need to learn how not to do that" kind of communication. Claimant expressing behaviors is her way of communicating.

123. Behavioral therapy is not something claimant's mother will consider because claimant "does not have issues or diagnoses that require her to even begin

that [behavioral therapy assessment] process.” She “does not need an expert to tell me that. This is her communication, it is not a behavior.” Claimant’s actions are responses “to a negative stimuli to her, being in a situation she does not want to be in, and it is not appropriate to train her to accept inappropriate stimuli; just don’t introduce the negative stimuli.”

124. Claimant’s mother agreed that claimant initially rejected being fed by a spoon and that other tasks were taught to her in incremental steps. She also agreed that dental anesthesia was a way they found to meet claimant’s dental needs.

125. Claimant’s mother described the dental care Dr. Hilo has provided. Claimant grinds her teeth and he puts coating on them to protect them. Claimant’s mother was not aware of the bathtub/dental issues until she noticed claimant’s gums were turning black and there was a smell “like a dead person” in claimant’s room. She took claimant to Dr. Hilo who noticed the great change in claimant’s dental condition and asked what had changed, and the only thing that had changed was that claimant was no longer using a bathtub where she could immerse her face in water. This is why Dr. Hilo wrote his initial letter and immediately treated claimant for her dental condition instead of having her wait for treatment.

126. Claimant’s mother had Dr. Hilo write a supplemental letter because she felt Ms. Zambel misconstrued what the initial letter said so she asked him for clarification. Of note, claimant’s mother said Ms. Zambel testified that she spoke with Dr. Hilo, but that was not Ms. Zambel’s testimony; she testified she spoke with his office personnel.

127. Claimant’s mother discussed the current IPP process, noting her prior IPP meetings were in person, but the 2025 IPP meetings were virtual, and she was given a

blank form (IRC35c) to sign but she never signed the IPP. She repeatedly requested changes be made so that the IPP accurately reflected the discussions held and the services requested. This is why there were so many addendums. Owing to her concern she had waived her rights by signing the IRC35c, she reached out to Disability Rights of California to inquire about her rights, with a copy to PM Saterfield, who then apologized to claimant's mother and told her that would not happen again and that she would attend the next IPP meeting.

128. Although PM Saterfield told claimant's mother that she was the decision-maker, when they met at the next IPP meeting, she told claimant's mother that she would have to take claimant's requests back to the committee for approval and would get back to her. Thereafter, the next IPP meeting was canceled and none was ever rescheduled.

129. Claimant's mother admitted that despite the IPP not being signed, IRC has continued to fund the agreed-upon services, including reimbursing claimant's mother for the dental care Dr. Hilo provided and installing a lift in claimant's mother's vehicle to get claimant in and out of that vehicle.

130. Claimant's mother testified that the IPPs are not novels. They are merely summaries of the discussions and they contain an "oversimplification" of her requests. She said the addendums "sort of" capture the changes she requested but still contain inaccuracies, such as incorrectly indicating the bathtub was being requested because claimant enjoys taking a bath, but that was not the reason for the request. She also testified the dates are inaccurate as she did not receive the documents until months after the dates listed. For example, she did not receive the May 20, 2025, IPP addendum until October 2025.

## CONSUMER ID NOTES

131. Consumer ID Notes, commonly referred to as Title 19 notes, documented discussions between claimant's mother and IRC, as well as internal IRC discussions. Several entries referenced discussions regarding the bathroom modification request. Other notes referenced discussions regarding claimant's mother's other requests.

132. An April 14, 2025, note documented the CSC's discussions with claimant's mother including telling her that "the most recent updated version of the IPP will be the final one as it will be locked so any additional info moving forward will be added as addendums." PM Saterfield explained the IPP was locked to make sure it was timely and, if more information was needed, it could be added by addendum.

133. PM Saterfield believed the CSC continued corresponding with claimant's mother, but did not think any meetings were requested after March 2025. She agreed that if IPP meetings are requested, they should be scheduled. She was then shown an April 9, 2025, entry documenting the CSC's communication with claimant's mother to schedule a follow-up meeting regarding claimant's updated IPP and advise her that the CSC and PM would coordinate on scheduling a meeting. Two entries on April 14, 2025, referenced the CSC's discussions with claimant's mother, one being the note that also referenced locking the IPP, but no meeting transpired. No explanation for why one did not occur was offered.

134. A May 14, 2025, ID Note, contained the following entry:

CSC met virtually with PM and director, Don, to discuss information re: bath modification, approval, denial, and/or community support grant; CSC explained the case and the concerns that consumer's mother has made as well as

explained the information that the OT rep, Annette, has shared and detailed; CSC advised that OT rep mentioned that due to the shower to bath modification being more of a want/preference than a need/necessity it may not be approved/appropriate for the community support grant; CSC and PM also mentioned that other recommendations for baths were made but mother has refused to move forward with alternative options; director informed CSC and PM that bath modification will be denied and an NOA will need to be sent out; PM reported that she will work on the NOA.

135. At hearing PM Saterfield was asked about this May 14, 2025, meeting and testified that when it took place, she had reviewed the 2022 bathroom modification request, which she described as her "ongoing reviews" of the documents. She did not recall the specifics of the discussion regarding alternative options, other than they reviewed Ms. Richardson's options listed in her report. PM Saterfield agreed the Title 19 note, which was not written by her, might not include all options discussed that were in the OT report and there were still options that claimant's mother refused to try. At the meeting, they also discussed the options that were not viable, such as the dam. PM Saterfield testified that all options were provided to, and discussed with, the director. She does not recall who made the want/preference statement; it was not her. In her discussions, she talked about "need" not "want."

136. PM Saterfield explained that recommendations from doctors, like those provided here, are sent to the clinical team to review. A doctor's recommendation does not automatically mean IRC will fund the request. Dr. Thompson's 2022 note

regarding the bathtub and Dr. Thompson's 2025 note regarding the wall heater were both sent to the clinical team. They were the ones who made the recommendations denying the requests. Here, given the nature of the bathtub request, the clinical team consisted of an occupational therapist and a physical therapist, and Ms. Richardson's findings overrode the letters from Dr. Thompson and Dr. Hilo.

137. Given that claimant's mother disagreed with the wording of the IPP, PM Saterfield was asked if incorrect information had been given to the director because the IPP had been provided to him. PM Saterfield recalled that verbal information had been provided to him, but did not recall the specifics or if the actual IPP was supplied. She presented no documents at the meeting and could not recall if the CSC did.

138. PM Saterfield explained that the decision to deny claimant's bathroom modification request was the director's decision. The decision was "above and beyond" PM Saterfield.

### **IRC'S PURCHASE OF SERVICE POLICY**

139. The IRC Purchase of Service Policy (POS) identifies what services IRC will provide and fund for its consumers. The POS is approved by IRC's board of directors and DDS. The POS requires IRC "to utilize the least costly provider" when funding services, and requires families to carry out their responsibilities. Requests for services must be documented in the IPP and must be based on the consumer's needs. The POS permits IRC to purchase services not consistent with these standards when the Interdisciplinary Team identifies and documents in the consumer's IPP that circumstances warrant an exception.

140. The section titled: "Special Equipment: Durable and Non-Durable Items and Home Modifications" allows IRC to purchase special equipment "after the

Interdisciplinary Team has identified the need during the [IPP] meeting with the participation of the consumer, [parent], regional center, other program staff and care provider, if appropriate. The equipment purchased must encourage independence, inclusion and empowerment. . . . These assessments should include options that are most appropriate to meet the needs of the consumer and family.”

141. PM Saterfield agreed there is not a requirement that the service request must last long term, which was one of the bases for IRC’s decision. She also agreed there was no requirement that the assessments require IRC to look at appropriate long-term solutions.

### **COMMUNITY SUPPORTS POLICY GUIDE**

142. The California Department of Health Care Services’s Community Supports Policy Guide “is intended to serve as a resource for [Medi-Cal managed care plans (MCPs)] in the implementation of Community Supports.” The guide “provides a comprehensive overview of Community Supports, as well as operational guidance for MCPs” and “serves as a resource for Community Supports Providers.”

### **HCBS DOCUMENTS**

143. An HCBS document provided answers to several questions regarding HCBS issues. Appendix C of another HCBS document provided specifications for services. PM Saterfield agreed that the services do not require a long-term assessment. However, as she explained, this document refers to the waiver and is not how IRC assesses for services. The Lanterman Act determines if the service can be funded and IRC assessments need to include long-term assessments.

## **MEDI-CAL DEFINITIONS**

144. Medi-Cal literature regarding Community Supports, which are “services provided by [MCPs] to address Medi-Cal members’ health-related social needs, help them live healthier lives, and avoid higher, costlier levels of care,” contained and defined the types of Community Supports offered. The list identified Environmental Accessibility Adaptations (Home Modifications) as one such support that can be offered to ensure the health and safety of Medi-Cal members and allow them to function with greater independence. Examples of home modifications listed included ramps, grab bars, doorway widening, stair lifts, or making bathrooms wheelchair accessible.

## **ARTICLES INTRODUCED BY CLAIMANT**

145. Claimant introduced several articles with her Supplemental Position Statement and attached other documents to her Objections to IRC’s exhibits. The Xylitol article claimant attached to her Objections is referenced above and other documents, consisting of emails and requests for records, were previously addressed in OAH’s Order Re’ Claimant’s Evidentiary Motion.

146. Several articles addressed pain in individuals with intellectual disabilities. One article concluded “that pain in the [intellectual disability] population may be under-recognized and under-treated, especially in those with impaired capacity to communicate about their pain.” Another found:

Pain occurs with at least the same frequency and people with [intellectual disability], as in the general population. Identifying and measuring pain among individuals with [intellectual disability] is clearly more challenging than

doing so among individuals who are cognitively intact, and may require the use of both direct and indirect methods. However, considering the risk of under-treatment of pain in this population, people with [intellectual disability] should be carefully and routinely monitored for any changes in their behavior and/or mood that may indicate the presence of pain, in order to institute appropriate treatment and prevent unnecessary suffering.

147. A third article reported on a study of “chronic pain in adults with an intellectual disability in terms of its prevalence, impact on physical and psychological functioning, and treatments used.” A majority of caregivers reported that individuals became upset or distressed by pain. The study’s results indicated that “chronic pain is a significant problem for persons with and [intellectual disability], with a proportion of [those individuals] living with daily pain for many years and experiencing limitations in daily functioning, emotional well-being, and quality of life.”

148. A fourth article discussed how cognitive impairments in the nonverbal could impact pain experience and expression, noting that it was previously believed that “children with cognitive impairments do not feel pain, are less sensitive to pain or are indifferent to pain” which is contrary to recent research. “The reason some individuals with cognitive impairments, particularly those who are nonverbal, may appear to be insensitive to pain could be because they may express pain differently than children who do not have a cognitive impairment. There are many potential explanations for this difference, one being due to difficulty communicating.” The article further noted that “each individual may express pain differently . . . [and] some of these behaviors may not always communicate pain; they may also express distress

or frustration.” The article concluded that pain management in children with cognitive impairments can be “challenging,” that researchers were “currently investigating how attitudes, beliefs, and opinions of caregivers may impact the care and pain management for children who have cognitive impairments and are nonverbal,” and that more information was needed.

149. A fifth article examined whether typical pain behavior reported by caregivers could be used prospectively to predict future pain behavior and assist with refining the Non-Communicating Children’s Pain Checklist. The study found that a subset of items from that checklist “could predict pain in children with cognitive impairments. Caregivers’ retrospective reports may be useful for clinicians making judgments about pain in these children.” The article noted the need to develop pain tools to properly assess pain for nonverbal children.

150. Another article from claimant discussed what can be learned from persons with intellectual disabilities and ways to ensure human rights and self-determination, with emphases on independence and making individual choices.

151. The Occupational Therapy Practice Framework: Domain and Process, Fourth Edition, 2020, “is an official document of the American Occupational Therapy Association.” The document “presents a summary of interrelated constructs that describe occupational therapy practice.” Claimant also introduced articles about the Person-Environment-Occupation Model in the Occupational Therapy practice, ethics code for behavior analysts, and an article about interventions for autism, including ABA.

152. Claimant did not call any experts to discuss these articles or render opinions regarding how they specifically applied in this matter. Claimant’s arguments

in her closing brief regarding these articles, including her arguments that there were ethical violations committed, were simply that, arguments. They were unsupported by any expert opinions and were not persuasive.

## **LEGAL CONCLUSIONS**

### **Purpose of the Lanterman Act**

1. The purpose of the Lanterman Act is to provide a “pattern of facilities and services . . . sufficiently complete to meet the needs of each person with developmental disabilities, regardless of age or degree of handicap, and at each stage of life.” (Welf. & Inst. Code, § 4501; *Association of Retarded Citizens v. Department of Developmental Services* (1985) 38 Cal.3d 384, 388.)

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

2. Each party asserting a claim or defense has the burden of proof for establishing the facts essential to that specific claim or defense. (Evid. Code, §§ 110, 115, 500; *McCoy v. Bd. of Retirement* (1986) 183 Cal.App.3d 1044, 1051, footnote 5.) In this case, claimant bears the burden to prove that IRC should be required to fund the services she seeks and that her IPP process was inadequate.

3. The standard by which a party must prove those matters is the “preponderance of the evidence” standard. (Evid. Code, § 115.)

4. A preponderance of the evidence means that the evidence on one side outweighs or is more than the evidence on the other side, not necessarily in number of witnesses or quantity, but in its persuasive effect on those to whom it is addressed. It

is "evidence that has more convincing force than that opposed to it." (*People ex rel. Brown v. Tri-Union Seafoods, LLC* (2009) 171 Cal.App.4th 1549, 1567.)

## **The Lanterman Act, DDS, and Regional Centers**

5. The Lanterman Act is found at Welfare and Institutions Code section 4500 *et seq.*

6. Welfare and Institutions Code section 4501 sets forth the state's responsibility and duties.

7. Welfare and Institutions Code section 4512 defines services and supports.

8. DDS is the state agency responsible for carrying out the laws related to the care, custody and treatment of individuals with developmental disabilities under the Lanterman Act. (Welf. & Inst. Code, § 4416.) In order to comply with its statutory mandate, DDS contracts with private non-profit community agencies, known as "regional centers," to provide the developmentally disabled with "access to the services and supports best suited to them throughout their lifetime." (Welf. & Inst. Code, § 4620.)

9. A regional center's responsibilities to its consumers are set forth in Welfare and Institutions Code sections 4640-4659.2.

10. Welfare and Institutions Code section 4646, subdivision (b), provides that the IPP "is developed through a process of individualized needs determination."

11. Welfare and Institutions Code section 4646.4 sets forth the internal process for creating IPPs. Subdivision (a)(1) requires regional centers to conform with their purchase of service policies.

12. Welfare and Institutions Code section 4646.5, subdivision (a)(1), requires the IPP planning process to include gathering information and conducting assessments. Subdivision (5) requires that process to also include the services to be obtained by generic resources, generic service agencies, and natural supports.

13. Welfare and Institutions Code section 4648 requires regional centers to ensure that services and supports assist individuals with developmental disabilities in achieving the greatest self-sufficiency possible. Regional centers must secure services and supports that meet the needs of the consumer, as determined by the IPP. Regional centers must be fiscally responsible and may purchase services or supports through vendorization or contracting. Subdivision (a)(8) states: "Regional center funds shall not be used to supplant the budget of an agency that has a legal responsibility to serve all members of the general public and is receiving public funds for providing those services."

14. Welfare and Institutions Code section 4659 states in part:

(a) Except as otherwise provided in subdivision (b) or (e), the regional center shall identify and pursue all possible sources of funding for consumers receiving regional center services. These sources shall include, but not be limited to, both of the following:

(1) Governmental or other entities or programs required to provide or pay the cost of providing services, including Medi-Cal, Medicare, the Civilian Health and Medical Program for Uniform Services, school districts, and federal

supplemental security income and the state supplementary program.

(2) Private entities, to the maximum extent they are liable for the cost of services, aid, insurance, or medical assistance to the consumer.

[¶] . . . [¶]

(b) Any revenues collected by a regional center pursuant to this section shall be applied against the cost of services prior to use of regional center funds for those services. This revenue shall not result in a reduction in the regional center's purchase of services budget, except as it relates to federal supplemental security income and the state supplementary program.

[¶] . . . [¶]

(f) In order to best utilize generic resources, federally funded programs, and private insurance programs for individuals with developmental disabilities, the department and regional centers shall engage in the following activities:

(1) Within existing resources, the department shall provide training to regional centers, no less than once every two years, in the availability and requirements of generic, federally funded and private programs available to persons with developmental disabilities, including, but not limited

to, eligibility requirements, the application process and covered services, and the appeal process.

(2) Regional centers shall disseminate information and training to all service coordinators regarding the availability and requirements of generic, federally funded, and private insurance programs on the local level.

15. Welfare and Institutions Code section 4731 sets forth the procedures for filing a complaint with DDS by a consumer who believes that any right to which he or she is entitled has been abused, punitively withheld, or improperly or unreasonably denied by a regional center, state-operated facility, or service provider.

## **Evaluation**

### **BATHTUB REMODEL REQUEST**

16. Claimant did not establish by a preponderance of the evidence that IRC is required to fund her request for bathroom modification by removing an accessible shower and installing a bathtub. IRC conducted occupational therapy evaluations and properly determined that installing a bathtub does not meet claimant's needs, and is not a safe or cost-effective option. Claimant is nonambulatory, requires physical assistance, uses a wheelchair for long distances that others maneuver, and can sometimes walk on her knees. In the face of claimant's physical limitations, installing a bathtub is unsafe. Ms. Richardson credibly explained all the reasons why it is unsafe and her findings were amply supported by the record.

In fact, the very reasons claimant requested the stronger respite worker and vehicle modification further supported IRC's position. Claimant's mother requested a

stronger respite worker who could lift claimant and requested a vehicle modification, which IRC funded, to assist getting claimant in and out of the car. While IRC only agreed to fund the vehicle lift as a result of mediation, this means that IRC was convinced during mediation that claimant needed that service because claimant's mother could no longer safely lift claimant from the vehicle. That determination further supports Ms. Richardson's opinions that installing a bathtub is unsafe. Claimant's argument that her mother can safely lift her in and out of a bathtub is incongruous with the contemporaneous requests for a stronger respite worker and a vehicle lift to safely lift claimant. The evidence supported Ms. Richardson's opinions, particularly her concerns about the safety of converting an already accessible shower to a bathtub.

Moreover, claimant does not have control of her bladder or bowels. Having her use her bathwater for dental hygiene is not appropriate. Ms. Zambel explained why doing so would be unhygienic. Dr. Hilo countered that any unsanitary liquids that would be detrimental to claimant's health was negligible given the volume of water in a bathtub and described steps claimant's mother could take such as draining the tub or cleansing claimant before the bath. However, that latter suggestion was at odds with claimant's assertion that the tub was the only way to cleanse claimant and the former suggestion supported Ms. Zambel's opinions that the water could become unhygienic given claimant's lack of bladder and bowel control. In addition, even though he treats patients with developmental disabilities, Dr. Hilo offered no alternatives other than the bathtub as ways to accomplish claimant's dental hygiene which seemed implausible. On balance, Ms. Zambel's opinions are accepted over those of Dr. Hilo.

Claimant's argument that Ms. Richardson, an occupational therapist, incorrectly overrode the opinions in Dr. Hilo's and Dr. Thompson's letters<sup>4</sup> opining a bathtub is required, was not persuasive. As an occupational therapist, Ms. Richardson has the education, skills, training, and experience necessary to evaluate claimant's request. There was no showing that she was not qualified to render the opinions she gave. Further, simply because claimant's primary care physician and dentist opined that claimant requires a bathtub does not end the analysis. Although the Lanterman Act gives consumers and their families certain rights, and requires regional centers to respect the choices they make, the Lanterman Act also places restrictions on the services that regional centers may fund.

Regional centers must fund services according to the needs outlined in the IPP. Regional centers must look to generic resources. Regional centers must comply with their purchase of services agreements. Regional centers must comply with DDS Directives. Regional centers must comply with applicable laws, both state and federal. Regional centers must be cost-effective. Regional centers are prohibited from purchasing services that are not evidence-based or are experimental. Regional centers may only fund services that Medicare and Medicaid determine can be funded. Regional centers may not pay vendors rates that exceed DDS rates.

Applying those principles here, funding claimant's bathroom modification request does not meet claimant's needs and is not a cost-effective use of IRC funds, especially in light of the alternatives IRC proposed that claimant's mother rejected, some without even trying. If physician or dentist letters were all that was required to fund service requests, the legislature could have so stated in the Lanterman Act.

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<sup>4</sup> Again, no actual letter from Dr. Thompson regarding the bathtub was offered.

Instead, regional centers must consider other factors, as well, including that the services meet the consumer's needs and be fiscally responsible.

Claimant's argument that the services IRC proposes will cost more than the bathroom remodel misses the mark. While that may be true in the short term, IRC must also consider claimant's needs and safety and the long-term costs at hand. As Ms. Richardson explained, given claimant's age and that of her mother, it is very likely claimant will require an accessible shower in the future. Thus, removing the one in place now, only to have to reinstall one in the future, is an unnecessary waste of funds. Ms. Richardson's opinions in this regard were further supported by claimant's requests for stronger respite workers and the vehicle lift, both of which were services required over time as claimant's mother can no longer safely lift claimant unassisted.

Further, IRC must offer services that meet claimant's needs and given the evidence presented regarding her issues with using the bathtub, offering ABA is a service that meets those needs. Claimant did not establish that an ABA assessment would harm claimant or that ABA services would not be appropriate. None of the documents claimant introduced supported her position that an ABA assessment was improper or that claimant would not benefit from those services. None of those documents supported claimant's argument that IRC's behavior therapy assessment offer was improper. However, despite this finding, it is important to note that claimant's request is not being denied in lieu of her having a behavioral assessment. Whether that assessment was offered and whether claimant undergoes it has no bearing on the finding that Ms. Richardson's and Ms. Zambel's opinions are accepted over those offered by claimant's physician, dentist, and mother. As found, installing a bathtub does not meet claimant's needs, is not fiscally responsible, and is not safe for the reasons stated above.

On this record, claimant did not establish by a preponderance of the evidence that IRC's determination to deny claimant's request for the bathtub modification was incorrect. IRC's denial of that request was supported by the evidence.

### **IPP PROCESS INADEQUACY ASSERTION**

17. Although Welfare and Institutions Code section 4731 provides the remedy for consumers who believe their rights have been violated, claimant was allowed to present evidence that her IPP process was inadequate because she claimed it was related to her assertion that IRC reached incorrect conclusions regarding her service requests. Having considered that evidence, claimant's assertion that an inadequate IPP process led to incorrect conclusions regarding the bathtub request was not persuasive. Those conclusions were well-founded for the reasons stated above.

As the evidence demonstrated, although claimant's mother clearly does not like the way many things are worded in the IPP, as shown by her emails and the many IPP addendums, and there has been a long history of appeals and mediations between claimant and IRC, many of which were resolved in claimant's favor, claimant failed to establish that IRC is required to fund the bathtub modification, even assuming IRC committed errors during the IPP process. In other words, any procedural errors committed by IRC do not have a bearing on the overall conclusion that claimant failed to meet her burden of proof to establish the necessity of the requested service.

The Title 19 notes contain numerous entries in 2020, 2021, 2022, 2023, and 2024, regarding scheduling IPP meetings, responding to claimant's mother's requests, and holding consultations with vendors and IRC teams to address claimant's needs and requests. The entries document the numerous service requests claimant made and IRC's responses thereto, including its requests for insurance denials and additional

information. A May 18, 2022, entry documented that on the same day claimant's mother requested IRC assistance with the bathtub conversion, the CSC emailed the IRC "OT/PT to gather more information and the process." The entries did not demonstrate that IRC was ignoring claimant's requests or otherwise refusing to meet her needs.

As to the 2025 IPP being locked, as PM Saterfield explained, given how long the 2025 IPP process was taking, it was "locked" at one point to insure it was timely, but the IPP could still be amended by addendums, which occurred. The evidence did not demonstrate that "locking" the IPP led to IRC no longer considering claimant's requests or denying her funding. In fact, even though the 2025 IPP was unsigned, IRC continued to fund services for claimant.

While it is true there were Title 19 entries in March and April 2025 about scheduling an IPP meeting, and none was set, which PM Saterfield testified should not have happened, and which Executive Director Johnson referenced in her letter, this did not rise to the level of there being an "inadequate" IPP process leading to wrong determinations being made about the bathtub request given the vast communications between the parties and the many IPP addendums generated. Had there been no communications and had IRC ceased funding services until the 2025 IPP was signed, the process may have been inadequate, but on this record, that finding cannot be made. Moreover, as PM Saterfield explained, there were IRC personnel issues which caused delays in addressing claimant's requests, and while this was unfortunate, there was no showing it was intentional, and IRC did appear to be doing its best to communicate and address claimant's mother's many concerns and follow up on her service requests. In any event, Executive Director Johnson's letter referenced the proposed resolutions to address claimant's IPP issues.

Claimant's concerns regarding her IPP process were properly raised in her Welfare and Institutions Code section 4731 complaint, and addressed by Executive Director Johnson. Claimant can appeal to DDS if she is not satisfied with Executive Director Johnson's findings and proposed resolutions. This hearing is not the proper forum to address those IPP concerns, and IRC shall not be ordered in this decision to make any changes to its IPP process.

Claimant also did not establish that the May 14, 2025, meeting between the CSC, PM Saterfield and the IRC Director was inadequate or led to IRC making an incorrect determination. PM Saterfield testified that the Title 19 notes of that meeting, which she did not author, might not include all discussions held at the meeting, and that all options were discussed with the director who made the decision to deny the bathtub request.

On this record, claimant did not establish by a preponderance of the evidence that her IPP process was inadequate such that IRC made an incorrect determination on her request for a bathroom modification.

### **CLAIMANT'S NOA TIMELINESS ARGUMENT**

18. Claimant also argued about the length of time it took IRC to issue an NOA denying her bathtub request, asserting it took over three years for IRC to do so. However, OAH lacks jurisdiction to order any redress for that claim. Once an NOA is issued, and a consumer appeals, OAH hears the matter. Welfare and Institutions Code sections 4700 through 4731 set forth the appeal procedures and nothing therein authorizes OAH to order a regional center to issue an NOA. Instead, Welfare and Institutions Code section 4731 provides the remedy for consumers who feel that a right to which they are entitled has been abused, punitively withheld, or improperly or

unreasonably denied by a regional center. As discussed, claimant filed a 4731 complaint, which Executive Director Johnson addressed. If not satisfied, claimant can appeal to DDS. This hearing is not the proper forum to address that claim.

### **CLAIMANT'S FEDERAL LAWS AND GOVERNMENT CODE ARGUMENTS**

19. Claimant also made several arguments regarding violations of federal laws and regulations, the Government Code, and HCBS waiver requirements. Those arguments are not persuasive as this matter is heard under the Lanterman Act found at Welfare and Institutions Code sections 4500 et. seq. As Welfare and Institutions Code section 4706, subdivision (a), specifically states: "all issues concerning the rights of persons with developmental disabilities to receive services . . . shall be decided under" the Lanterman Act.

### **ORDER**

Claimant's appeal is denied. IRC shall not fund her request for bathroom modification to remove an accessible shower and install a bathtub.

DATE: February 19, 2026

MARY AGNES MATYSZEWSKI  
Administrative Law Judge  
Office of Administrative Hearings

## **NOTICE**

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