

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

**In the Matter of the Request for Funding of:**

**CLAIMANT**

**and**

**INLAND REGIONAL CENTER, Service Agency**

**DDS No. CS0026925**

**OAH No. 2025050834**

**PROPOSED DECISION**

Mary Agnes Matyszewski, Administrative Law Judge, Office of Administrative Hearings, State of California, heard this matter on July 1, 2025, by videoconference.

Claimant's mother, who is also her conservator, represented claimant, who was not present. She was assisted by Daniel Fortune, an independent facilitator.

Senait Teweldebrhan, Fair Hearing Representative, Fair Hearings and Legal Affairs, represented Inland Regional Center (IRC).

Oral and documentary evidence was received. The record was closed and the matter was submitted for decision on July 1, 2025.

## **ISSUE**

Should IRC increase claimant's Self-Determination Program (SDP) budget to fund an increase of 540 hours for personal assistance services?

## **FACTUAL FINDINGS**

### **Jurisdictional Matters**

1. Claimant, a 21-year-old female, resides in her home with her mother. She is eligible for regional center services based on her diagnoses of cerebral palsy and mild intellectual disability. Other records also referred to a diagnosis of autism.

2. Claimant sought to increase her SDP budget to fund additional personal assistance services. Claimant requested the increase for the period from August 12, 2025, through December 19, 2025, in lieu of attending school because of "ongoing issues at her current educational placement."

3. On May 7, 2025, IRC issued a Notice of Action to claimant advising that it was denying her request "to increase the [SDP] individual budget by an additional \$19,980 for unmet needs in the following areas: 540 hours of additional personal assistance for 4 months from August to November 2025 to cover school hours." IRC denied the request because "the request for additional personal assistance hours to cover school hours fall [*sic*] within the scope of services that are the responsibility of the School District." IRC explained that its funds cannot be used to supplant services that are the responsibility of other publicly funded agencies. Since claimant is under age 22, she is still eligible for services through her school district and, as such, the

services she is requesting should be provided through the school district and not through her SDP budget.

4. Claimant timely appealed, and this hearing followed.

## **Self-Determination Program**

5. In 2013, the Legislature enacted Welfare and Institutions Code section 4685.8, requiring the Department of Developmental Services (DDS) to implement a statewide SDP to provide individuals and their families with more freedom, control, and responsibility in choosing services and supports to help them meet objectives in their Individual Program Plan (IPP). DDS began pilot programs in certain regional centers, and oversaw statewide working groups from various regional centers and consumer groups to develop policies and procedures to implement the program.

6. Starting July 1, 2021, the SDP was available to all eligible regional center consumers who wished to use it. All regional center consumers now have the option to have their services delivered through the SDP model or continue to receive services in the traditional model. With the SDP model, while participants have more choice over which services they receive and who delivers those services, participants also have more responsibility because they must manage their own budget resources with the assistance of a Financial Management Service and support from the regional centers. The regional centers must certify that the cost of the SDP does not exceed the cost if claimant were to remain in the traditional service model.

7. After the budget is certified, the participant and regional center must develop a spending plan identifying the cost of each good, service, and support that will be purchased with regional center funds. Each item in the spending plan must relate to goals in the participant's IPP and be identified by a specific service code from

a list of codes DDS publishes. A participant can annually transfer up to 10 percent of the funds in any budget category to other budget categories without regional center approval. Transfers exceeding 10 percent require regional center approval.

## **Evidence Introduced at Hearing**

8. IRC Consumer Service Coordinator (CSC) Angela Garcia-Lopez, IRC SDP Specialist Beatriz Galvez, IRC Program Manager Brandie Parhm, IRC Individuals with Disabilities Education Act (IDEA) Specialist Amanda Knoefler, claimant's mother, and independent facilitator Daniel Fortune all testified in this hearing, and various documents were introduced. The factual findings reached herein are based on their testimony and those exhibits.

## **IRC's POSITION STATEMENT**

9. IRC's Position Statement set forth the bases for its denial.

10. IRC authorized funding for respite (292 hours per month), social recreation (\$613 per month for seven months and then \$673 per month for five months), social recreation coaching (12 days per month), tutoring services (25 hours per month), personal assistance services (90 hours per month for four months, increasing to 190 hours per month for eight months to cover school breaks), and camp (\$1,895 per year). IRC denied the request to add an additional \$19,980 for 540 more hours of personal assistance for four months from August 1, 2025, to November 30, 2025, that claimant requested "in lieu of educational services available through the school district."

## **DDS DIRECTIVE**

11. DDS's January 11, 2019, Directive authorizes regional centers to adjust the amount of an SDP individual budget if the IPP team "determines an adjustment to this amount is necessary due to a change in the participant's needs, circumstances or resources or the team identifies prior needs for resources unaddressed in the IPP that would have resulted in an increase or decrease in the amount of regional center expenditures." In addition, "SDP funds can only be used for services that: have been approved by the federal centers for Medicare and Medicaid services and are not available through other funding sources (e.g., Medi-Cal, In-Home Supportive Services (IHSS), schools, etc.)."

## **IRC CONSUMER I.D. NOTES**

12. IRC Consumer I.D. Notes (Title 19 Notes) documented that on March 11, 2025, claimant's independent facilitator confirmed that claimant's mother was requesting additional personal assistance hours be added to the SDP budget to cover the time when claimant was out of school.

13. A March 16, 2025, note documented that claimant's budget was approved and her spending plan was approved for a June 1, 2025, start date.

14. Another March 16, 2025, entry documented that claimant's independent facilitator called with "questions about adding more [personal assistance] hours if [claimant] exits school before turning 22."

15. The April 17, 2025, entries documented the notifications given to her respite and tutoring vendors that claimant's traditional authorizations were ending as she was transitioning to SDP as of June 1, 2025. Another note on that date

documented claimant's mother's inquiry about additional personal assistance hours if claimant does not return to school in August as claimant's mother was "not sure if [claimant] will or will not return to school."

16. An April 21, 2025, entry noted an email from the independent facilitator that claimant was "requesting enough [personal assistance] hours to cover the time [claimant] would be in school during the day from August through the end of November." The hours were calculated at six hours per day, five days per week to cover her school hours.

17. A May 1, 2025, entry noted that 126 additional personal assistance hours were approved because there had been a miscalculation about the hours needed when claimant aged out of school and for months with five weeks.

18. Other entries documented CSC Garcia-Lopez's attendance at various Individualized Education Program (IEP) team meetings at claimant's school.

### **PERSON-CENTERED PLAN**

19. Claimant's January 2025 Person-Centered Plan provided information about claimant including the services and supports she receives. As documented, her unmet needs included funds for gas mileage for 2,400 miles per year for a personal assistant, increase funds to \$800 for social recreation, funds for camp, funds for a personal assistant for 90 hours a month for eight months and 190 hours a month for four months to cover school breaks, and the social recreation coach for 36 hours.

### **SDP INDIVIDUAL BUDGET AND SPENDING PLAN**

20. Claimant's SDP individual budget of \$262,601.64 was approved on April 15, 2025. This included \$673 per month for social recreation services, \$45.88 per

month for FMS services, another \$71.37 per month for FMS services, 208 hours per month of respite services which was increased to 244 hours per month for four months and then increased to 292 hours per month for six months, and transportation for respite services at \$0.70 per mile for 3,240 miles per month.

21. Claimant's SDP spending plan documented the total amount was \$262,601.12. Of note, the \$0.52 difference between the budget and the plan was not explained at hearing. The plan identified the various services to be funded.

### **PERSONAL ASSISTANCE SERVICES**

22. A joint publication from the DDS and the California Health and Human Services Agency provided detailed information about personal assistance services. The services are "used to help a person with a disability do tasks that he or she would normally do if there was no disability." The publication further states:

Almost any service that is needed to help the consumer lead his or her preferred life qualifies as [personal assistance services]. These may be services provided in the home, at school, work and in community activities. A consumer of regional center services must have needed services included in his or her IPP which also identifies who is responsible for payment for the services. Services generally fall into the following categories: 1) personal care, 2) domestic services, 3) related and other services and, 4) paramedical services. In order to receive all [personal assistance services] that is required, services and payment from several different

sources, i.e., IHSS, regional center, private funds, etc., may need to be combined.

The publication provides examples of different types of services in each category. As noted, related and other services do include protective supervision. However, nowhere are education services identified as personal assistance services.

23. Service Code 062, Personal Assistance, "Service Guidelines and Limitations," sets forth what the service does and does not include for requirements and eligibility, consumer care, domestic duties, recreational activities, and miscellaneous. While supervision is identified as an allowed consumer care activity, and homework assistance is identified as an allowed miscellaneous activity, nowhere are education services identified.

## **INDIVIDUAL PROGRAM PLANS**

24. Claimant's most recent IPP, dated May 23, 2024, contained information regarding claimant and the services and supports she receives. Claimant requires full assistance to complete her personal care activities. Per the IPP, she receives 208 hours per month of in-home respite, \$613 per month for social recreation activities, and monthly FMS services. She received a temporary respite increase from April 1, 2024, until June 30, 2024, and again from June 1, 2024, until August 31, 2024, due to claimant's mother's medical emergency. Effective June 13, 2024, funding for a tandem adult tricycle was approved through the social recreation activities reimbursement. The generic resources claimant receives are 283 hours of IHSS, Social Security Administration survival benefits, and county adoption assistance. Claimant receives specialized education in high school and participates in an adult transition program. Claimant utilizes a special wheelchair and a van conversion was funded by claimant's



prior regional center. Claimant reportedly can get overstimulated in the classroom but is allowed to use noise-canceling headphones and an iPad to help her manage. Claimant will “engage in maladaptive behavior when she is triggered.” She “may engage in aggressive behavior, self-injurious behavior, elopement and emotional outbursts when she is triggered.” She “typically targets her aggression towards her mother by hitting. She may also spit at others when she is frustrated and angry.” Her “self-injurious behavior consists of hitting herself,” she “will punch her thighs which may cause bruising. Her self-injurious behavior occurs when she is impatient, in pain, or on her menstrual cycle.” She “will attempt to elope if she is left unsupervised. [She] can be impatient or can be overstimulated by loud noises and she will state, ‘I want to go,’ and cover her ears.” Claimant participated in a program to address her behaviors and was encouraged to contact her medical insurance provider if she wished to seek behavior services. Owing to safety concerns, including impulsivity and elopement, claimant requires constant supervision during waking hours.

25. A May 31, 2024, IPP addendum documented IRC’s agreement to allow the respite provider to provide that service at an alternate location so claimant’s mother could stay home while receiving the respite benefit.

### **CERTIFICATE OF COMPLETION**

26. On June 3, 2022, claimant received a Certificate of Completion which is awarded to students who have completed their high school education but may not have met all of the requirements for a diploma.

### **IEPs AND AMENDMENTS**

27. Claimant’s November 12, 2024, IEP documented that claimant is in 12th grade and her primary eligibility category for services is “Multiple Disabilities,” with a

secondary eligibility category of "Other Health Impairment." Her strengths were that she is extremely social and always willing to help. She is able to participate in group activities and share her thoughts. During the IEP meeting, claimant's mother shared that she had no concerns "aside from a general concern about the safety of the class due to potentially violent behaviors exhibited by other students." The IEP documented claimant's strengths, struggles, areas of need, progress, goals, and services provided. The Social/Emotional/Behavioral entry noted:

Emotional: [claimant] is well-mannered and has a good outlook on life. She is mostly happy. However, she showed signs of stress during the 2024 academic year. Most mood issues appear to correlate with her inability to do what she wants in the present moment. Calming strategies used to help her mitigate severe emotional distress are listening to music, taking a walk, or playing a game with a friend when appropriate.

Behavioral: [claimant's] behaviors are appropriate for a school setting. She has mimicked peer behaviors at times but usually can be redirected with verbal prompts. She has recently been seeking attention, including repeatedly saying 'ow.' She has had tantrums, including open-hand smacking the table, the wall, her thigh or head.

During the meeting, claimant's mother shared her concerns regarding classroom safety, reporting what claimant has relayed when she comes home from school. The educational specialist advised claimant's mother the classroom was a safe environment and that claimant's safety was not in jeopardy. There were also

discussions regarding claimant's mimicking the behavior she observed another student doing. The education specialist advised he had been documenting that issue since October and observed about seven to eight behavior issues and the other student was taken to the sensory room. The program specialist thought the mimicking behaviors seem to be due to claimant being exposed to the other student's behaviors and suggested the IEP team look into this issue to provide support. Claimant's advocate asked about a Special Circumstances Instructional Aide (SCIA), commonly referred to as a one-to-one aide, to provide support and claimant's mother wanted that support so claimant did not develop negative behaviors. The IEP noted that the team would "come back to this conversation" about an SCIA. It was also noted the district was proposing that claimant go to the emerging adult transitional program at a different high school but claimant's mother wanted claimant to remain at her current high school where she had been for three years.

28. A March 3, 2025, IEP amendment to the November 12, 2024, IEP was an "SCIA Report Review IEP meeting." The school psychologist reviewed the SCIA report with the team. There were discussions regarding claimant's recent falls at school and those not being documented in either the SCIA report or at the school. The IEP amendment documented the following:

School [psychologist] summarized her classroom observations with the team. School [psychologist] reported that there is plenty of staff to support students, classroom is very structured with routine, and activities that are done in class. School [psychologist] shared that the staff in the classroom are trained to work with this population of students and meet the student's needs. School

[psychologist] shared that [claimant] knows the routine and has several independent skills. School [psychologist] shared there is a 2:1 ratio for the classroom and a 1:1 support as needed. School [psychologist] shared that the least restrictive environment for [claimant] would be in the adult transition program at [the other high school].

Claimant's mother inquired as to why claimant had not been placed in that program from the start, but the school psychologist could not answer that question as she was not part of the team when the placement decision was made. Claimant's mother shared that she does not want to move claimant now that she has made friends. Claimant's needs and the assistance she required were discussed and the advocate expressed concern that the SCIA report did not highlight the needs or level of support claimant required in the critical life skills (CLS) setting in which she was currently placed, nor clearly identify when staff needed to assist claimant. Concerns regarding claimant falling were again discussed and a safety protocol was noted to be something that may help address the risk of claimant falling.

29. A May 5, 2025, IEP Amendment documented the purpose of the meeting was to review the physical therapy assessment and address claimant's mother's concerns. The November 12, 2024, IEP was changed to reflect a proposed Fade In Plan and a Behavior Support Plan. The school had evaluated claimant over several occasions and determined there was no need for physical therapy at this time, nor was there a need to keep her on a physical therapy consult. All of her needs were met in the current CLS program. Claimant's current behaviors were newer, including an increase in her request to go home in recent weeks which claimant "made with a smile and giggle suggesting it may be an escape behavior." Redirecting behavior sometimes

satisfied the request. Claimant's mother reported the bad behaviors by other students that claimant told her about, telling her mother that the students were "mean." Both the educational specialist and the program specialist reported their observations of the classroom, both stating that there were no major aggressions or behaviors observed in recent weeks. The school psychologist reported that claimant's behaviors were attention seeking, both negative and positive, and suggested a behavior plan to address those behaviors. The tutor reported on claimant's progress in the Tutor Me program, noting she appeared to accomplish more in that program than in the classroom, and he had the ability to provide whatever support the IEP team determined was required. The IEP team discussed ways to encourage claimant to go to school, possibly providing preferred activities at the start of each day. Claimant also gets tired around lunchtime. Discussions were held regarding how to transition her with a lunchtime threshold and implementing a behavior plan. There was discussion as to why Home Hospital, referenced below, was denied, including the fact that claimant's physician's letter was not an order, and that the school determined a behavior plan with transition back to school was best for claimant. Claimant's tutor would be allowed to observe her in the classroom to identify areas of need the tutor could address.

30. A May 27, 2025, IEP amendment reflected the "Home Hospital minutes" of May 27, 2025, through June 6, 2025. Many services would resume once claimant returned to school, others would be performed at home.

31. As CSC Garcia-Lopez testified, and as documented in the IEPs, she attended IEP team meetings and testified about them consistent with what was documented in the records.

## **SCHOOL EMAIL RE: CLAIMANT'S BEHAVIOR**

32. On May 6, 2025, claimant's teacher emailed claimant's mother that claimant "did exceptionally well all morning. She participated in all activities without issue." However, at 11:50 a.m., claimant began expressing displeasure and telling friends they were being mean. There were no notable antecedents preceding this behavior and the teacher took claimant on a walk. It was then time for lunch and claimant still appeared frustrated but no visible antecedents were observed. The teacher believed claimant was "hitting her emotional limit and would benefit from a shortened day today."

## **PHYSICIAN'S LETTERS AND REFERRAL**

33. On April 24, 2025, the medical assistant for Pria Persaud, M.D., an adult and child-adolescent psychiatrist, signed a letter addressed to IRC and claimant's school advising that claimant has been in Dr. Persaud's care since July 2, 2024. She is diagnosed with autism spectrum disorder with accompanying language and intellectual impairments. Claimant had been struggling behaviorally since the beginning of the academic school year and during the past two to three weeks, had been refusing to attend school. On the days she did attend, she was picked up in a few hours because she wanted to go home.

34. The letter further noted that claimant "has been consistently verbalizing about not wanting to go to school, the kids are mean, they are biting, spitting and fighting each other." During the past two months claimant "has also been exhibiting similar aggressive behavior at home which is causing significant emotional dysregulation." It appeared claimant's exposure to the behaviors in school "has had a detrimental effect on her emotional regulation and well-being." Despite several

medication changes and the option to provide as needed medication in school, there has been limited improvement. Currently, claimant "is not benefiting from the classroom setting and instruction, and it is recommended that the school considers Home Hospital until the end of the school year." It was also recommended, if feasible, to consider "placement in a different classroom setting within the same current school that is less physically reactive and students with less stimming behaviors."

35. On May 8, 2025, Dr. Persaud authored a letter to the school advising that claimant was being placed on medical leave from May 8, 2025, to May 16, 2025. She was cleared to return to school on May 19, 2025.

36. On May 13, 2025, Dr. Persaud completed a Medical Referral Application requesting temporary Home and Hospital instruction for claimant. Dr. Persaud noted claimant would be out of school for two weeks or longer, noting the return date was unknown but was a minimum of six weeks from the date she signed the form (May 13). On the section asking why the accommodation is being requested, Dr. Persaud wrote "Home Hospital or independent study" and circled "Yes" in response to the inquiry as to whether claimant was physically capable of attending classes on her school campus with accommodations but wrote, "but if [claimant] is aggressive or severely emotionally deregulated options of Home Hospital or independent study should be considered." Dr. Persaud listed claimant's diagnosis as "Autism."

37. On June 3, 2025, Dr. Persaud completed a second Medical Referral Application requesting accommodation of Home Hospital for summer session, and anticipated implementing Home Hospital for the upcoming academic school year due to "ongoing destructive behaviors, self-harm [and] assaultive behaviors towards others. Emotional dysregulation persists, current classroom setting and instruction is

not benefiting [claimant]." In the section asking for the date when claimant could return to regular school, Dr. Persaud wrote: "not presently."

### **HOME HOSPITAL INSTRUCTION**

38. Literature from claimant's school district described the student support services offered, including Home Hospital instruction. The literature described the eligibility and application process, including the school's recommendation that the student enroll in the program. Home Hospital is a student support service offered when students are "experiencing any condition or circumstances which is preventing them from accessing school and the educational environment as a typical student might."

39. Emails between the school and claimant's mother documented the school approved claimant to receive Home Hospital instruction from May 27, 2025, through June 6, 2025. The communications also contained information regarding that program.

40. Other emails documented claimant's mother's extreme dissatisfaction with the school district and the inconsistent information she was getting, the failure to be notified when claimant's behaviors escalated at school, and how it "will be plastered all over Facebook all over everywhere about what you people do to Special Needs kids." Claimant's mother's emails noted her frustration and displeasure with the school. The emails also contained discussions regarding IEP signatures and consent, including advising claimant's mother about why the school could not implement a modified day schedule for claimant until claimant's mother signed the IEP consenting to that modification.



41. In a June 10, 2025, letter, the school district addressed claimant's request for Home Hospital instruction to continue through the extended school year "and potentially into the 25/26 school year." The letter noted that the IEP team met to carefully consider the request and "is denying the continuation of Home Hospital instruction for [the extended school year]." The letter noted that California Code of Regulations, title 5, section 3051.4, requires a medical report from a licensed physician, surgeon, or clinical psychologist that includes a specific diagnosis of the medical condition, certification that the severity of the condition prevents the student from attending school in her current placement, and a projected return to school date. The IEP team had reviewed Dr. Persaud's note provided at the June 5, 2025, IEP amendment meeting but it "did not clearly establish a medical condition that renders [claimant] unable to attend any portion of her educational program." The district noted that the regulation explains that Home Hospital is not an automatic placement but an IEP team decision. Claimant's IEP team met and discussed claimant's current needs and determined that Home Hospital instruction "would not provide her with adequate access to the academic, emotional, behavioral, and adaptive daily living support available in her current school-based program." The letter noted that during the June 5, 2025, IEP meeting, claimant's mother clarified that claimant is not experiencing medication changes due to her disability, but is being medicated as a necessary response to her emotional dysregulation. The IEP team appreciated that clarification and remained committed to supporting claimant's "emotional and behavioral needs within the classroom setting through structured routines, a Behavior Support Plan, and staff trained in behavior intervention."

42. The district's June 10, 2025, letter further noted the options considered and rejected by the IEP team and the reasons for the rejection. Home Hospital instruction for the extended school year was rejected because "it would not

adequately address [claimant's] educational and behavioral needs. This setting would significantly limit access to academic instruction, functional skills development, and behavioral support." The IEP team also considered continuation of school-based services with modifications which consisted of maintaining claimant's placement in the CLS classroom with appropriate support which "remains the most appropriate option." The team proposed a modified school day to allow claimant to "gradually reintegrate into the school setting while receiving access to her academic instruction, functional life skills curriculum, and behavioral supports. This plan is designed to meet her current needs in the least restrictive environment." The district also noted that the IEP team discussed claimant's emotional regulation and refusal to come to school, and proposed and implemented a transition plan and behavior support plan to support claimant's reentry and success on campus and "[t]hese supports continue to be available and remain appropriate" for the extended school year. The letter also noted that the IEP team previously recommended claimant be placed in the district's adult transition program to further support her independence and postsecondary readiness, but claimant's mother did not agree to that placement so claimant "remains in the CLS program under stay-put provisions."

43. On June 11, 2025, Dr. Persaud authored a letter noting that claimant had been in her care since July 2, 2024, with her most recent appointment being June 5, 2025. Claimant is diagnosed with generalized anxiety disorder, disruptive behavior disorder, autism spectrum disorder requiring very substantial support with accompanying intellectual and language impairment, aggressive behavior, and non-suicidal self-harm. Claimant's current medications were listed, including diazepam which was started on February 3, 2025, "due to worsening aggression." Dr. Persaud wrote that claimant "began the school year with manageable behavior but over the past six months, her condition has significantly declined, likely due to baseline

psychiatric symptoms and negative classroom stimuli.” Due to the numerous negative behavioral reports from school staff, as needed medication was administered by the school nurse but proved ineffective. Claimant was placed on medical leave then transitioned to Home Hospital services. Claimant had been receiving Home Hospital instruction for the past week with improved behavior but discussions about returning to school trigger severe distress including self-harm and aggression. Dr. Persaud was aware the IEP team determined Home Health for the extended school year would not adequately address claimant’s educational and behavioral needs, but claimant “has not been able to be maintained in school consistently to benefit from these interventions.” Given her current state, Dr. Persaud recommended continuing Home Hospital instruction for the duration of summer school (June 13, 2025, through July 1, 2025), as it has proven effective. Although the IEP team proposed a modified one-hour school day, Dr. Persaud believed this was not advisable given claimant’s adverse reactions and one hour of Home Hospital instruction daily was in her best interest. Dr. Persaud also recommended continuing Home Hospital services for the fall semester (August 12, 2025, through December 19, 2025).

44. In a series of emails between IRC and the school district, as of June 18, 2025, the school district had not made a final decision regarding Home Hospital services for claimant for the upcoming school year as the district was “waiting on clarification” from Dr. Persaud.

45. As Program Manager Parhm explained, one basis for IRC’s decision is the fact that claimant has not yet exhausted her generic resources because the school district has not yet made a final determination. Additionally, as both Program Manager Parhm and IDEA Specialist Knoefler explained, given claimant’s age, the school district is responsible for providing services to her and it has made proposals which it believes

will address claimant's needs. The fact that claimant chooses not to avail herself of those offered services does not automatically result in IRC being required to fund the service claimant requests. The school district has offered services to meet claimant's needs and IRC reviewed claimant's request and determined her needs will be met by what the school district is proposing. As of the date of this hearing, given that the school district has not made a final determination, claimant has no unmet needs.

46. IDEA Specialist Knoefler testified about the services schools can provide and how the IEP team at claimant's school has offered services which claimant has refused. Even if those services were accepted and shown to be unsuccessful, the IEP team has not had an opportunity to meet again, evaluate claimant's needs, and offer alternative services, examples of which IDEA Specialist Knoefler identified. The IEP team is the generic resource which must provide services and is required to meet and evaluate claimant's needs and offer services to meet those needs. Claimant must first exhaust those generic resources before IRC can fund services.

### **IRC PURCHASE OF SERVICES POLICY**

47. The IRC Purchase of Services Policy sets forth how various services shall be provided and funded, including requiring IRC "to utilize the least costly provider" and requiring families to carry out their responsibilities. The section regarding the purchase of educational services states that those services may be funded for children ages 3 to 17 when the need has been identified in the IPP and the following preconditions have been met: the service is not available through the school district and all appropriate generic resources have been exhausted. Educational services can also be provided to assist the consumer with tutoring needs. Exceptions to these policies must be identified by the interdisciplinary team and documented in the consumer's IPP. As noted in the records, IRC has identified a need which it

documented authorizing tutoring services to claimant even though she is older than age 17.

48. The purchase of services policy also provides that any consumer dissatisfied with IRC's determination may file an appeal, as claimant did here. Nothing in the policy prohibits IRC from funding the modification which claimant seeks.

### **Claimant's Witnesses Testimony**

49. Claimant's mother emotionally testified about what claimant has been going through since August 2024. She has been home or missed attending school and is now on psychiatric medication, all of which are due to her new aggressive behaviors. She never required diazepam in the past; it is solely being prescribed because claimant's behaviors are escalating to the extent she is causing self-harm which claimant's mother said never occurred before. These behaviors all stem from claimant observing and mimicking bad behavior in her classroom from students who were newly placed therein. Claimant's mother was told those students cannot be moved and instead the district recommends moving claimant, but claimant's mother does not want to do that since her daughter has been at that school for three years. Things escalated to such an extent that claimant has not been school since May 19, 2025, and the district is not offering services that meet claimant's needs. Claimant's mother is seeking to have personal assistance services since it is unsafe to send claimant to school. She described the great success her daughter has had with the tutor and how her behaviors resolve when she is away from school.

50. Claimant's mother does not understand why her request to increase services in the past was granted but this one is not being granted. However, as IRC explained, claimant's mother is claimant's primary caretaker so when she had medical

issues, services were increased so that other individuals could provide care to claimant while claimant's mother recuperated. In that situation, there was no generic resource so IRC could increase its funding of that service. Here, there is a generic resource, the school district, which claimant must pursue first before IRC can fund the service.

51. Mr. Fortune testified about his prior background in special education and noted that the provision of Welfare and Institution Code section 4648.55 on which IRC relies prohibits funding if the consumer has not obtained a certificate of completion; claimant has obtained one, so that code section does not apply. He also noted that the IEP specifically noted "maladaptive behavior," not "mimicking behavior," which shows that the IEP team already recognizes that claimant is in an maladaptive environment. Requiring claimant to return to that environment is not in her best interest. Mr. Fortune asserted that the purpose of SDP is to provide consumers with the "best life possible." He and claimant's mother do not want claimant to be in the school environment as it does not meet her needs. Given that the school district cannot meet claimant's needs, she has unmet needs which the regional center should fund through an increase in claimant's SDP budget.

## **LEGAL CONCLUSIONS**

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

1. 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, 1051-1052.) In this case, claimant bears the burden to demonstrate that IRC should fund the services she seeks.

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

3. 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. (*People ex rel. Brown v. Tri-Union Seafoods, LLC* (2009) 171 Cal.App.4th 1549, 1567.)

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

4. The Lanterman Developmental Disabilities Services Act (Lanterman Act) is found at Welfare and Institutions Code section 4500 et seq.

5. 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.)

6. DDS is the public agency in California 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 nonprofit 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.)

7. A regional center’s responsibilities to its consumers are set forth in Welfare and Institutions Code sections 4640-4659.

## Applicable Statutes

8. Welfare and Institutions Code section 4501 states:

The State of California accepts a responsibility for persons with developmental disabilities and an obligation to them which it must discharge. Affecting hundreds of thousands of children and adults directly, and having an important impact on the lives of their families, neighbors and whole communities, developmental disabilities present social, medical, economic, and legal problems of extreme importance.

[¶] . . . [¶]

An array of services and supports should be established which is sufficiently complete to meet the needs and choices of each person with developmental disabilities, regardless of age or degree of disability, and at each stage of life and to support their integration into the mainstream life of the community. To the maximum extent feasible, services and supports should be available throughout the state to prevent the dislocation of persons with developmental disabilities from their home communities.

9. Welfare and Institutions Code section 4640.7, subdivision (b), requires each regional center designed to “reflect the maximum cost-effectiveness possible” based on a service coordination model.



10. Welfare and Institutions Code section 4644 authorizes regional centers to provide preventative services but those "services shall, inasmuch as feasible, be provided by appropriate generic agencies . . . . In no case, shall regional center funds be used for supplant funds budgeted by any agency which has a responsibility to provide prevention services to the general public."

11. Welfare and Institutions Code section 4646 requires that the IPP and the provision of the services and supports be centered on the individual with developmental disabilities and take into account the needs and preferences of the individual and the family. The IPP is developed through a process of individualized needs determination. The individual with developmental disabilities and, if appropriate, the individual's parents, legal guardian or conservator, or authorized representative, shall have the opportunity to actively participate in the development of the plan. The provisions of services must be effective in meeting the IPP goals, reflect the preferences and choices of the consumer, and reflect the cost-effective use of public resources.

12. Welfare and Institutions Code section 4646.4 requires regional centers to establish an internal process when an IPP or individualized family service plan is created, and sets forth what that must entail.

13. Welfare and Institutions Code section 4646.5 outlines the IPP development process which must include a statement of goals and identify the sources of the funded services.

14. Welfare and Institutions Code section 4647 sets forth what service coordination must include.

15. 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) prohibits the regional center from using its funds "to supplant the budget of an agency that has responsibility to serve all members of the general public and is receiving public funds for providing those services."

16. Welfare and Institutions Code section 4648.55 prohibits regional centers from purchasing various services for a consumer who is 18 to 22 years of age if that consumer is eligible for special education and related education services and has not received a diploma or certificate of completion, unless the IPP planning team determines that the consumer's needs cannot be met in the educational system or grants an exemption. An exemption may be granted if the IPP team determines the generic service is not appropriate to meet the consumer's needs. If the IPP team determines the generic services can meet the consumer's needs, the regional center shall assist the consumer in accessing those services.

17. Welfare and Institutions Code section 4659 requires regional centers to identify and pursue all possible sources of funding for consumers receiving regional center services.

18. Welfare and Institutions Code section 4685.8 requires DDS to implement a statewide SDP program that will be viable in every regional center catchment area, and sets forth how that program will be run and overseen.

19. Pursuant to Education Code section 56026, claimant is an individual with exceptional needs entitled to receive services from her school district.

## **Evaluation**

20. Claimant did not establish by a preponderance of evidence that her SDP budget should be increased. Claimant has not exhausted her generic resource, the school district. While it is understandable claimant's mother does not want claimant to return to the classroom, the school district has yet to issue a final determination regarding Home Hospital, and, even if it had, the IEPs documented other proposals the IEP team set forth, none of which have been implemented. IRC also described other services the district can offer and additional meetings the IEP team can hold to evaluate claimant's needs if the proposed plans do not work. Although Welfare and Institutions Code section 4648.55 does not strictly prohibit IRC from funding this service because she has received a certificate of completion, she has generic resources that must be utilized first.

Claimant failed to establish she has unmet needs because she has not put the school district's suggestions in place, nor has she established there is nothing else the school district can provide. The records documented many suggestions made by the school district, all of which were rejected by claimant's mother. Rejecting proposals is not the same as having unmet needs. IRC must look first to generic resources which it properly did in this case. IRC properly determined that the SDP budget cannot be increased because claimant failed to establish a change in her needs, circumstances or resources that cannot be addressed by the school district. IRC properly complied with the DDS directive and other applicable laws when reaching its decision.

On this record, claimant's appeal must be denied.

## **ORDER**

Claimant's appeal of IRC's denial to fund an increase in her SDP budget for personal assistance services is denied. IRC's denial of that request is affirmed.

DATE: July 10, 2024

MARY AGNES MATYSZEWSKI

Administrative Law Judge

Office of Administrative Hearings

BEFORE THE  
DEPARTMENT OF DEVELOPMENTAL SERVICES  
STATE OF CALIFORNIA

In the Matter of:

Claimant

OAH Case No. 2025050834

Vs.

**DECISION BY THE DIRECTOR**

Inland Regional Center

Respondent.

ORDER OF DECISION

On July 7, 2025, an Administrative Law Judge (ALJ) at the Office of Administrative Hearings (OAH) issued a Proposed Decision in this matter.

The Department of Developmental Services (Department) takes the following action on the attached Proposed Decision of the ALJ:

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

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

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

IT IS SO ORDERED on this day August 5, 2025.

Original signed by:  
PETE CERVINKA  
Director