

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

In the Matter of:

CLAIMANT

and

REGIONAL CENTER OF ORANGE COUNTY,

Service Agency.

DDS No. CS0027311

OAH No. 2025060233

PROPOSED DECISION

Eric Sawyer, Administrative Law Judge (ALJ), Office of Administrative Hearings, State of California, heard this matter by videoconference on July 22, 2025. The record closed and the matter was submitted for decision at the conclusion of the hearing.

Claimant, who was not present, was represented by his mother. The names of claimant and his family members are omitted to maintain the confidentiality of this proceeding.

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

ISSUE

May claimant use funds from his Self-Determination Program budget to purchase an annual Disneyland pass?

EVIDENCE RELIED ON

In making this decision, the ALJ relied on service agency exhibits 1 through 8, and claimant exhibits A through C. The ALJ also relied on the testimony of Area Manager Carmen Gonzalez; Self-Determination Program Coordinator Crystal Chavez; and claimant's mother.

FACTUAL FINDINGS

Parties and Jurisdiction

1. Service agency determines eligibility and provides funding for services and supports to persons with developmental disabilities under the Lanterman Developmental Disabilities Services Act (Lanterman Act), among other entitlement programs. (Welf. & Inst. Code, § 4500 et seq.)

2. Claimant is a 44-year-old conserved man who is eligible for services under the Lanterman Act based on his qualifying diagnosis of Intellectual Disability. (Ex. 3.) However, claimant's mother reports her son also has been diagnosed with autism spectrum disorder; service agency was not aware of this diagnosis.

3. As discussed in more detail below, claimant currently is enrolled in the Self-Determination Program (SDP).

4. On April 25, 2025, a Planning Team Meeting was held between claimant, his mother, and service agency staff to discuss claimant's mother's request to use SDP budget funds to purchase an annual Disneyland pass for claimant. (Ex. 2.)

5. By letter dated May 1, 2025, service agency advised claimant's mother that her request had been denied. The stated reason for the denial was that the Department of Developmental Services (DDS) issued a directive in July 2024 prohibiting the use of SDP funding for purely recreational activities, such as entrance to an amusement park, because such activity does not meet the federal Home and Community Based Services Final Rule criteria. (Ex. 2.)

6. On June 2, 2025, claimant's mother submitted to DDS an Appeal Request Form, in which she appealed service agency's denial of her request to use SDP funding to purchase an annual Disneyland pass for her son. (Ex. 1.)

Claimant's Relevant Background Information

7. Claimant has been blind since birth. (Testimony [Test.] of claimant's mother.)

8. According to his individual program plan documents (IPP), claimant lives at home with his mother, who is his conservator. Claimant attends a day program during the week, funded by service agency. (Exs. 3-4.)

9. As mentioned above, claimant is a participant in the SDP. His current budget totals \$102,375.12 for the 12-month period of December 1, 2024, through November 30, 2025. (Test. of Gonzalez; Exs. 5, 6.)

///

10. Among various services funded by service agency and included in claimant's SDP budget and spending plan are personal fitness training, a gym membership, swimming lessons, surfing lessons, and music lessons. (Exs. 5, 6.)

11. In addition, claimant receives the following benefits and services from generic resources: (a) 243 hours per month of In-Home Supportive Services (IHSS); (b) Supplemental Security Income (SSI) financial benefits; and (c) Health Benefits provided through Medi-Cal/Cal Optima. (Exs. 3, 4.)

The SDP Funding Request

12. Because claimant is blind he does not have many opportunities to fully experience a community outing. Usually, he must rely on other people to explain where they are and what is happening. (Test. of claimant's mother.)

13. Claimant's mother finds taking her son to Disneyland a better and more fulfilling community outing. This is primarily because Disneyland offers free of charge to vision-impaired guests a special headset and vest system that offers audio commentary. The system is in sync with the guest's location, so it provides commentary on what is in the area where the guest is located. The same is true when a guest visits a ride or attraction. Disneyland also offers a service for disabled people where they can make an appointment for a ride or attraction, and thereby avoid waiting in line for a prolonged period. In addition, Disneyland has special calming rooms that allow those overwhelmed by the surrounding activities to desensitize. (Test. of claimant's mother.)

14. Claimant derives great benefit from visiting Disneyland, because he can better interact with his surroundings; claimant's mother benefits because she is able to engage her son on a deeper level. (Test. of claimant's mother.)

15. Claimant's mother would like to purchase an annual pass for Disneyland so she can take her son there more frequently. Claimant's mother would like to use the SDP budget to purchase such a pass. (Test. of claimant's mother; Ex. 2.) The price of a pass is not in evidence.

16. Service agency's denial of this funding request is based on a directive issued by DDS on July 8, 2024 (or DDS directive). In this directive, DDS explains SDP funding updates, as well as reminds stakeholders that "SDP funds can only be used for goods and services that: have been approved by the federal Centers for Medicare and Medicaid Services. . . ." (Ex. 7, p. A36.)

17. Attached to the DDS directive is Enclosure B, containing a list of services and supports that are approved by the federal Centers for Medicare and Medicaid Services, and those that are not approved. (Ex. 8.) In the Community Integration section of Enclosure B is the following prohibition: "Purely recreational activities that do not meet the disability-related needs of the participant and/or their IPP goals and outcomes (for example, entrance tickets for amusement park or similar for the consumer)." (*Id.*, p. A40.)

18. Crystal Chavez, service agency's SDP Coordinator, testified the DDS directive clearly prohibits using SDP funds to pay for amusement park entrance tickets.

19. Claimant's mother contends use of her son's SDP funds for an annual pass is not prohibited because claimant's visits to Disneyland are not purely recreational. Instead, a trip to Disneyland offers unique opportunities for claimant to meet his needs by allowing him to engage in his surroundings in a way other community outings do not.

///

LEGAL CONCLUSIONS

Jurisdiction and Burden of Proof

1. An administrative fair hearing to determine the rights and obligations of the parties, if any, is available under the Lanterman Act. (Welf. & Inst. Code, §§ 4700-4716; subsequent undesignated statutory references are to this code.) Claimant's mother timely appealed the service agency's denial of her funding request, and therefore jurisdiction exists for this appeal. (Factual Findings 1-6.)

2. As claimant is requesting funding the service agency has not yet approved, he bears the burden of proof. (See, e.g., *Lindsay v. San Diego Retirement Bd.* (1964) 231 Cal.App.2d 156, 161 [disability benefits].)

3. The standard of proof is the preponderance of the evidence because no law or statute (including the Lanterman Act) requires otherwise. (Evid. Code, § 115.) This standard is met when the party bearing the burden of proof presents 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.)

4. A proposed decision for final review by DDS is required because this case involves federal funding under the SDP. (§ 4712.5, subds. (d) & (e).)

Governing Law

5. Section 4685.8 governs regional center consumers participating in the SDP. The purpose of the SDP is to provide participants and their families, within an individual annual budget, increased flexibility and choice, and greater control over decisions, resources, and needed and desired services and supports to implement their

IPP's. (§ 4685.8, subd. (a).) The individual budget is the amount of funding regional center makes available to the participant for the purchase of services and supports. (*Id.*, subd. (c)(3).)

6. The participant may only purchase services and supports necessary to implement his IPP, and shall comply with any and all other terms and conditions for participation in the SDP. (§ 4685.8, subd. (d)(3)(C).)

7. Pursuant to section 4685.8, subdivision (c)(6), SDP funds shall only be used for "services and supports provided pursuant to this division that the federal Centers for Medicare and Medicaid Services determines are eligible for federal financial participation."

8. Since participants must create and update their IPP's, the other provisions of the Lanterman Act not expressly exempted in section 4685.8 apply to funding determinations within the SDP process.

9. The Lanterman Act makes distinctions between those services which address a consumer's developmental disability and the services that are common to everyone, disabled or not. For example, section 4512, subdivision (b), defines services and supports that can be funded under the Lanterman Act as "specialized services and supports or special adaptations of generic services and supports directed toward the alleviation of a developmental disability, or toward the social, personal, physical, or economic habilitation or rehabilitation of an individual with a developmental disability, or toward the achievement and maintenance of an independent, productive, and normal life. . . ." This provision is consistent with section 4685.8, subdivision (d)(3)(C), which allows SDP funding only for services that will implement a participant's IPP.

///

Disposition

10. Based on the above, claimant is prohibited from using his SDP funds to buy an annual Disneyland pass. Section 4685.8, subdivision (c)(6), only allows SDP funds to be used for services and supports approved by the federal Medicaid and Medicare programs. Here, DDS in its July 2024 directive clearly advises that SDP funds cannot be used for entry fees to amusement parks like Disneyland. (Factual Findings 12-19; Legal Conclusions 5-7.)

11. The argument by claimant's mother that entry to Disneyland is not "purely recreational," and therefore SDP funds can be used to purchase an annual pass, is not persuasive. The description in Enclosure B of amusement park entry fees as "purely recreational" is not a litmus test to determine whether the expense is eligible for funding; it is a categorical statement that the federal government considers amusement park entry fees to be purely recreational and therefore not fundable. Even if that were not the case, it is clear that entry fees for amusement parks *are* purely recreational. One can conjure up non-recreational benefits for any recreational activity. If claimant's mother's definition of "purely recreational" is correct, no recreational activity would ever be purely recreational, and Enclosure B would have little meaning. Such is not a reasonable way of interpreting the DDS directive and its Enclosure B. (Factual Findings 12-19.)

12. Even if the above spending prohibition did not apply in this case, the Lanterman Act does not support funding a Disneyland annual pass. Section 4512, subdivision (b), clearly requires funding to be used for "specialized services and supports" aimed at ameliorating a developmental disability. In this case, the attraction to claimant's Disneyland visits is firmly rooted in the park's way of accommodating his

impaired vision, not his developmental disability. (Factual Findings 12-19; Legal Conclusions 8-9.)

13. Based on the above, claimant's appeal is denied. (Factual Findings 1-19; Legal Conclusions 1-12.)

ORDER

Claimant may not use funds from his Self-Determination Program budget to purchase an annual Disneyland pass.

DATE:

ERIC SAWYER

Administrative Law Judge

Office of Administrative Hearings

BEFORE THE
DEPARTMENT OF DEVELOPMENTAL SERVICES
STATE OF CALIFORNIA

In the Matter of:

Claimant

OAH Case No. 2025060233

Vs.

DECISION BY THE DIRECTOR

Regional Center of Orange County,

Respondent.

ORDER OF DECISION

On July 28, 2025, an Administrative Law Judge (ALJ) at the Office of Administrative Hearings (OAH) issued a Proposed Decision in this matter.

The Proposed Decision is adopted by the Department of Developmental Services 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 4712.5, subdivision (a)(1), 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 11, 2025.

Original signed by:
PETE CERVINKA
Director