

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

In the Matter of:

CLAIMANT

and

REGIONAL CENTER OF ORANGE COUNTY, Service Agency.

DDS No. CS0028156

OAH No. 2025070280

PROPOSED DECISION

Cindy F. Forman, Administrative Law Judge (ALJ), Office of Administrative Hearings (OAH), State of California, heard this matter by videoconference on August 14, 2025.

Ublester Penaloza, Assistant Manager, Fair Hearings and Mediation, appeared on behalf of the Regional Center of Orange County (Service Agency or RCOC).

Claimant's mother (Mother) appeared on behalf of Claimant. (The names of Claimant and Mother are omitted, and their family titles are used throughout this Proposed Decision to protect their privacy.)

Oral and documentary evidence was received. The record closed and the matter was submitted for decision on August 14, 2025.

ISSUES

This proceeding presents the following issues:

1. Whether Mother is entitled to payment as Claimant's sole service provider under the Self-Determination Program (SDP) because of Claimant's extraordinary care needs.

2. Whether Mother can be approved as a paid parent-provider under the Home and Community-Based Waiver for Californians with Developmental Disabilities (HCBS-DD) and/or the Home and Community-Based Alternatives (HCBA) Waiver programs.

3. Whether Mother is entitled to retroactive compensation under the HCBS-DD Waiver program for her care of Claimant starting on December 22, 2010, when Claimant was declared cognitively impaired for life.

This proceeding did not address Mother's complaints regarding the nature and tone of RCOC's communications with her or the breach of any duty by RCOC allegedly owed to Mother. The ALJ does not have jurisdiction to hear or resolve these complaints as they do not address a decision by the regional center regarding the delivery of a service or support. (Welf. & Inst. Code (Code), § 4710.5.) The proper procedure to address these grievances is to file a complaint as provided under Code section 4731.

///

EVIDENCE PRESENTED

The documentary evidence at hearing consisted of: Service Agency Exhibits 1 through 16, and Claimant Exhibits A through I. The testimonial evidence at hearing was provided by Crystal Chavez, RCOC SDP Coordinator; Carmen Gonzalez, RCOC Central Area Associate Director; Lucille Kowalski, RCOC Federal Programs and Benefits Specialist; and Mother.

SUMMARY

Claimant is a minor with extraordinary health needs. Claimant seeks reimbursement of services provided by her Mother to attend to those needs under the SDP, the HCBS-DD Waiver Program, and the HCBA Waiver Program.

Policy statements issued by the Department of Developmental Services (DDS) prohibit SDP program funding of direct personal care services provided by a parent to their minor child, regardless of the child's needs. Although the recent amendments to the HCBS-DD Waiver program suggest that reimbursement to parents providing services to minor children may be permitted as of January 1, 2025, there is currently nothing in the Lanterman Act, related regulations, or DDS directives authorizing payment to parents for providing personal care to their minor children. And while the HCBA Waiver program authorizes reimbursement for parent-provided care, DDS is not responsible for enrolling program participants or administering the HCBA Waiver program. Claimant's request for retroactive and current reimbursement of Mother's services is therefore denied. While Mother has provided valuable personal services to Claimant, Mother has not provided sufficient evidence to demonstrate that the Lanterman Act, regulated regulations, or any DDS directives authorize RCOC to pay

Mother for such services under the SDP or the HCBS-DD Waiver program while Claimant is a minor. Claimant's appeal therefore is denied.

FACTUAL FINDINGS

Parties and Jurisdiction

1. Claimant is a 17-year-old client of RCOC. She qualifies for regional center services under a diagnosis of Intellectual Disability. Claimant turns 18 on March 27, 2026.

2. In June 2025, Claimant requested Service Agency to provide reimbursement of Mother's services as Claimant's sole service provider through the SDP program. Mother asserted she is entitled to reimbursement of her services because of Claimant's extraordinary care needs.

3. On June 26, 2025, the Service Agency issued a Notice of Action, denying Claimant's request to have Mother paid through the SDP as Claimant's service provider, citing Code sections 4646.4. subdivision (a)(4), 4512, subdivision (e), and 4685.8, subdivision (p)(1), as well as DDS regulations.

4. On July 1, 2025, Mother submitted an Appeal Request Form (ARF) to DDS requesting a hearing to challenge RCOC's denial of paid parent provider funding in SDP. The ARF also requested Claimant's immediate enrollment in the HCBS-DD Waiver program and retroactive compensation to Mother as Claimant's service provider under the extraordinary care criteria of that program. The ARF additionally sought recognition of "RCOC's failure to fulfill their duty to inform and support a client with lifelong disabilities." (Exhibit 1, p. A2.)

General Background

5. Claimant is a 17-year-old girl who lives with her mother and father. She will turn 18 on March 27, 2026. Claimant has no siblings. Claimant has been diagnosed with intellectual disability, autism spectrum disorder, Williams Syndrome, and related cardiac ailments. Claimant is nonverbal, unable to eat solid foods, and in diapers. Claimant cannot feed herself and receives her food through a bottle. She has no safety awareness. Claimant has slack joints and poor spatial awareness, increasing her likelihood of falling.

6. Claimant requires assistance in all activities of daily living. Claimant's parents are her sole service providers and provide her with 24-hour support and supervision. Claimant qualifies for 283 hours of monthly In-Home Supportive Services (IHSS) plus protective supervision hours, Social Security benefits, and Medi-Cal. Mother is Claimant's IHSS provider. Mother has refused to have outside support for Claimant because Mother does not trust people who are unfamiliar with Claimant to provide proper care. Mother also contends Claimant does not like other people taking care of her.

7. Claimant does not attend school. Claimant receives educational instruction at home from Mother, who has developed a home school curriculum designed to address Claimant's needs and interests.

8. Claimant has been a regional center client since early childhood. She received RCOC-funded services as an Early Start program participant. Mother declined RCOC-funded services after Claimant became eligible to receive such services at age 3. Therefore, for the past 14 years, Claimant has not received any RCOC-funded respite,

personal services, behavioral services, or any therapies offered to and utilized by consumers with similar conditions and needs and their families.

SDP Participation

9. Mother first expressed an interest in transitioning to the SDP in March 2024. Because Claimant had not previously utilized RCOC-funded services, RCOC's Utilization Resource Group (URG) reviewed Claimant's case and, based on its review, recommended funding for agency respite, social/recreational program funding, funding for parent mentor services, and funding for a personal assistant. RCOC then prepared an initial budget for Claimant based on the URG's recommendations and sent the budget along with other SDP forms to Mother on May 24, 2024.

10. RCOC and Mother discussed Claimant's transition to SDP at Claimant's May 22, 2025 Individual Program Plan (IPP) meeting. Mother conveyed to the IPP team the importance of obtaining reimbursement for her services to Claimant as part of the SDP, as Claimant's medical condition precluded Claimant from participating in the programs identified in the proposed RCOC budget. After this meeting, Service Coordinator Sohee Kim (SC Kim) informed Mother that she could be reimbursed under the SDP as Claimant's parent service provider for the hours not covered by IHSS. Based on SC Kim's statement, Mother selected a Financial Management Service provider (FMS), designated Claimant's father as the Employer of Record, created an Employee Identification Number, completed all required orientations, and was entered into payroll. The FMS confirmed Mother was eligible to be paid as Claimant's provider because Claimant's father, not Mother, was listed as the Employer of Record.

11. Several days later, SC Kim retracted her statement and informed Mother that DDS regulations prohibit payment to a parent of a minor child for services

provided to that child. SC Kim apologized for her mistake and offered Mother alternative options for relief, including Claimant entering the SDP at age 18, when Mother could be paid for her services, or pursuing Claimant's health insurance for additional benefits. Mother disagreed with SC Kim's analysis. According to Mother, the SDP did not prohibit paying parent providers based on a participant's age, and under the SDP, a parent may be paid for services that go beyond the scope of normal parenting, which Mother believed were the circumstances of the services she provided to Claimant.

MOTHER'S CONTENTIONS

12. At hearing, Mother reiterated her claim that an exception to the SDP prohibition on parent providers for minors is justified in Claimant's case due to Claimant's extraordinary care needs. According to Mother, Claimant requires 24-hour care that cannot be provided by anyone except Claimant's parents. Mother asserted that Claimant would be irreparably injured if Claimant had to wait until she was 18 years old for Mother to receive compensation.

13. In support of her position, Mother cited the personal assistant provisions in California Code of Regulations, title 17 (CCR), section 58886, which sets forth the requirements for participant-directed services, and section 58614, which addresses the service and support components of supported living services (SLS). Mother also noted her significant investments of time and effort in enrolling in the SDP based on SC Kim's initial assertions.

14. In further support of her request for an exemption from the SDP prohibition against funding parent-provided services, Mother supplied a letter dated July 15, 2025, from Claimant's pediatrician, Paulina Avendano, M.D., FAAP. (Exhibit F.)

Dr. Avendano states in her letter that Claimant has been diagnosed with lifelong conditions that significantly impact her daily functioning. According to Dr. Avendano, Claimant requires continuous, 24/7 care to ensure her safety and well-being, as well as to support her developmental progress. Dr. Avendano asserts that denying parent-provider services would be against Claimant's best interests and medical needs.

RCOC'S CONTENTIONS

15. Crystal Chavez, the RCOC SDP coordinator, testified at hearing regarding the SDP. Ms. Chavez explained that the SDP is an alternative way to access services from the Service Agency, and the services are subject to the same review process as services provided under the traditional model. A regional center consumer can only utilize those services approved by the Centers for Medicare & Medicaid Services (CMS) that cannot be funded through alternative sources. Ms. Chavez testified that DDS Directives make clear that a parent of a minor cannot be paid to provide services to the minor under the SDP, notwithstanding the minor's needs. Ms. Chavez was not aware of any exceptions to this prohibition that would authorize parent-funded services for a regional center consumer because the consumer had extraordinary needs.

16. Ms. Chavez further testified that Claimant is in the process of transitioning to SDP, and RCOC is awaiting Claimant's spending plan to proceed. According to Ms. Chavez, even if Claimant completes the transition into SDP, Claimant cannot receive paid parent care provider services until she turns 18 years old in March 2026.

17. Carmen Gonzalez, RCOC Central Area Associate Director, is familiar with Claimant's history at RCOC. Ms. Gonzalez confirmed that Mother has consistently

refused respite and other regional center-funded services for Claimant. Ms. Gonzalez also testified that Mother agreed at the last IPP meeting to allow an RCOC Nursing Team to review Claimant's needs and Mother's request for a bathroom modification, i.e., a conversion of a bathtub to a shower. However, Mother refused to provide Claimant's updated medical records to RCOC and failed to appear at the videoconference nursing consultation. Mother has also refused in-person IPP meetings and the most recent IPP meeting was done by telephone.

18. Ms. Gonzalez asserted that Mother's reliance on CCR sections 58614 and 58886 is misplaced. According to Ms. Gonzalez, a parent can be reimbursed for providing SLS, but Claimant does not qualify for SLS because she does not own or lease her own home. Ms. Gonzalez also maintained that none of the participant-directed services identified in section 58886 relevant to Claimant's needs authorize payment to parents who provide such services directly to minor children.

HCBA-DDS Waiver and HCBA Waiver Programs and Mother's Claim for Compensation

19. On October 21, 2010, Claimant was approved for Medi-Cal through the DDS Waiver program (now the HCBS-DD Waiver program), with Medi-Cal benefits beginning on November 1, 2010. RCOC thereby added Claimant to the HCBS-DD Waiver program as of November 1, 2010. To participate in the HCBS-DD Waiver program, however, the regional center consumer must (1) have an open Medi-Cal case; and (2) have and bill "a qualifying service at least once each 12 month period." (Exhibit 5.) In Claimant's case, the qualifying service had to be billed no later than October 31, 2011.

///

20. Mother did not seek services or supports from RCOC for Claimant in 2011, thus rendering Claimant ineligible to participate in the HCBS-DD Waiver program. On March 16, 2012, Mother disenrolled Claimant from the HCBS-DD Waiver program by signing Part IV of the Medicaid Waiver Consumer Choice of Services/Living Arrangement Statement (Waiver Form), which is entitled "Disenrollment from Medicaid Waiver." In Part IV, Mother checked the box next to the statement, "I choose/my legal guardian/representative chooses to terminate my Medicaid Waiver participation. Since this is my choice, I will not be requesting a fair hearing." and signed her name below the statement. (Exhibit 7, p. A23.)

21. Mother repeatedly denied RCOC-funded services for Claimant at Claimant's IPP meetings through June 2025, and thus, re-enrollment in the HCBS-DD Waiver program was not addressed by RCOC during those meetings. It was not clear from the record whether RCOC ever discussed with Mother the effect of her refusal on Claimant's eligibility to participate in the HCBS-DD Waiver program.

MOTHER'S CONTENTIONS

22. At hearing, Mother did not dispute signing the Waiver Form. However, Mother asserted she signed the form believing she was agreeing that Claimant would not be institutionalized. According to Mother, she was not told that signing the form meant that she was disenrolling Claimant from the HCBS-DDS Waiver, and she did not intend to disenroll Claimant from the HCBS-DDS Waiver program.

23. Mother further asserted that the HCBS-DD Waiver program allows parents to be paid for taking care of their minor children if those children require extraordinary care. According to Mother, RCOC failed to disclose this information to her, and as a result, Mother has foregone financial compensation for taking care of

Claimant for nearly 14 years, since Claimant was determined to be substantially and permanently disabled as of December 22, 2010.

24. To support her position, Mother again cited CCR sections 58614 and 58886. She also cited to two documents: 1. Portions of the "Application for a Section 1915(c) Home and Community-Based Waiver: CA.0336.R05.10 – Jan. 01, 2025 (as of Jan 01, 2025)" (HCBS-DD Waiver Amendment), which was submitted by the California Department of Health Care Services (DHCS) to CMS as an amendment to the January 1, 2023 HCBS-DD Waiver (2023 HCBS-DD Waiver) and approved by CMS in February 2025 (Exhibit H, p. B91)¹ and 2. Excerpts from a CMS publication entitled "Leveraging Family Caregivers For Personal Care Services in 1915(c) Waiver Programs" located at the CMS website (CMS Excerpts) (Exhibit E, pp. B93–B94.)² Mother asserted that references to extraordinary circumstances in the HCBS-DD Waiver Amendment and extraordinary care in the CMS Excerpts show that the HCBS-DD Waiver program allows reimbursement to those parents who are providing direct personal care services to minors with extraordinary care needs.

¹ The 2023 HCBS-DD Waiver is located at www.dhcs.ca.gov/services/ltc/Documents/HCBS-DDS-CA-0336R0503.pdf. The complete HCBS-DD Waiver Amendment is 409 pages and is located at www.dds.ca.gov/wp-content/uploads/2025/02/Application_for_1915c_HCBSWaiver_CA.0336.R05.10_1.1.25.pdf.

² The CMS publication is located at www.medicaid.gov/medicaid/home-community-based-services/downloads/leveraging-family-care.pdf.

25. The approved HCBS-DD Waiver Amendment amended the 2023 HCBS-DD Waiver by providing rate increases for assorted services, adding a new service called Person-Centered Future Planning, increasing the rate for FMS, and allowing participant-direction for Community Living Arrangement Services. (Exhibit H, p. B107.) The portion of the HCBS-DD Waiver Amendment cited by Mother was not included in the 2023 HCBS-DD Waiver and pertains to the provision of personal care services. Mother contends the language of the provision is dispositive of her right to receive reimbursement for providing care to address Claimant's extraordinary needs. The relevant part of the provision states:

d. Provision of Personal Care or Similar Services by Legally Responsible Individuals. A legally responsible individual is any person who has a duty under state law to care for another person and typically includes: (a) the parent (biological or adoptive) of a minor child or the guardian of a minor child who must provide care to the child or (b) a spouse of a waiver participant. Except at the option of the State and under extraordinary circumstances specified by the State, payment may not be made to a legally responsible individual for the provision of personal care or similar services that the legally responsible individual would ordinarily perform or be responsible to perform on behalf of a waiver participant.

[¶] . . . [¶]

///

The state makes payment to legally responsible individuals for furnishing personal care or similar services when they are qualified to provide the services.

[¶] . . . [¶]

Legally responsible individuals, including parents of minor children and spouses, may receive payment to provide community living arrangement services. These services may only be provided when the care and supervision needs of a consumer exceed that of a person of the same age without developmental disabilities (extraordinary care).

(Exhibit H, p. B116–B117.)

26. Although the language cited by Mother suggests that she might be paid for personal services she provides to her children, the language is not definitive. According to the cited provision, payment to parents of minor children furnishing personal services is only permissible at “the option of the State,” and if the parent is qualified to provide the service. The portion refers to Appendix C-1/C-3 of the HCBS-DD Waiver Amendment to determine the personal care or similar services for which such payment may be made. A review of the cited appendices reveals that legally responsible persons may be paid to provide community living arrangement services, which include SLS and personal assistant activities that address the social, adaptive, behavioral, and health care needs of a recipient. (HCBS-DD Waiver Amendment, p. 94–95.)

27. However, it is unclear from the Waiver Amendment the kinds of community arrangement living services for which Mother can receive compensation.

As discussed in more detail in Legal Conclusions 16 and 25 below, Claimant is ineligible for SLS, and as of 2020, although Mother could arrange for someone else to be paid to provide personal assistant services to Claimant, DDS did not permit parents of minor children to be paid as the child's personal assistant. As of the date of this Order, there appears to be no DDS directive stating otherwise. The Waiver Amendment also states that a personal assistant must meet certain unspecified requirements and qualifications, yet it is unclear whether Mother meets those requirements. Moreover, the Waiver Amendment states that no payments can be made for the routine care and supervision which would be expected to be provided by a family, or for activities or supervision for which a payment is made by a source for which the state is obligated.

28. The CMS Excerpts are not directly pertinent to the circumstances presented here. The CMS Excerpts state that parent providers of extraordinary care might be eligible to be compensated under an HCBS waiver program, depending on state requirements. The HCBS Excerpts make clear that it is up to the state to determine whether and under what circumstances a legally responsible individual may be paid. Thus, the CMS Excerpts are not directed to California or the HCBS-DD Waiver program, and therefore do not support Mother's contentions.

29. In her testimony, Mother acknowledged that the HCBA Waiver program is not administered by DDS. She is aware that the HCBA Waiver program authorizes reimbursement to parents providing extraordinary care for their minor children. Mother is currently applying for Claimant to become a participant in the HCBA Waiver program.

///

RCOC's CONTENTIONS

30. Lucille Kowalski, RCOC Federal Programs and Benefits Specialist, testified regarding the availability of federal programs to regional center consumers and the benefits available under those programs. Ms. Kowalski has worked as a Federal Programs Specialist for six years and presented as knowledgeable about the HCBS-DD and HCBA Waiver programs. According to Ms. Kowalski, the HCBA and HCBS-DD Waiver programs are two distinct programs offered through CMS. The two programs have different eligibility criteria and offer different benefits. Ms. Kowalski explained that only the HCBA Waiver program provides compensation for parent providers of minor children for extraordinary care circumstances as defined by DHCS, and RCOC is not involved in enrolling or evaluating HCBA Waiver applicants.

31. Ms. Kowalski testified that a HCBS-DD Waiver participant is not eligible to receive additional or different services than a regional center consumer who does not participate in the waiver program. To be eligible for the HCBS-DD Waiver, the individual, among other things, must use a regional center-funded service that helps to avoid the individual's placement in an institution. According to Ms. Kowalski, parental care for a minor child is not a regional center-funded service and therefore is insufficient by itself to qualify for participation in the HCBS-DD Waiver program.

32. Ms. Kowalski also maintained that the HCBS-DD Waiver does not authorize funding for parents caring for their minor children. Ms. Kowalski is not aware of any billing code that would enable the regional center to pay a parent to provide direct personal care for their minor child. Thus, Ms. Kowalski maintained Mother would not be eligible for compensation as Claimant's provider even if she was enrolled in the HCBS-DD Waiver program.

33. According to a DHCS policy letter dated March 12, 2024, parents of a minor child who is an HCBA Waiver member may provide personal care services under “extraordinary care” services. The DHCS policy letter states that reimbursement of parent providers was first permitted as part of the COVID-19 Public Health Emergency and became part of the HCBA Waiver as of January 1, 2023, and has since been made a permanent part of the program. (Exhibit 16.)

LEGAL CONCLUSIONS

Jurisdiction and Burden of Proof

1. This case is governed by the Lanterman Developmental Disabilities Services Act (Code section 4500 et seq.), referred to as the Lanterman Act.

2. An administrative hearing to determine the rights and obligations of the parties is available under the Lanterman Act to appeal a regional center decision. (Code, § 4700.) Additionally, all issues relating to the provision of services under the HCBS-DD Waiver shall be decided under the fair hearing procedures set forth in the Lanterman Act. (Code, § 4706.) Claimant timely requested a hearing following the Service Agency’s denial of her request for funding parent caregiver services under the SDP or the HCBS-DD Waiver program, and therefore, jurisdiction for this appeal was established.

3. The party seeking government benefits or services bears the burden of proof. (See, e.g., *Lindsay v. San Diego Retirement Bd.* (1964) 231 Cal.App.2d 156, 161 [disability benefits].) The standard of proof in this case is a preponderance of the evidence, because no law or statute (including the Lanterman Act) requires otherwise. (See 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. In seeking payment for parent-provided services under SDP or the HCBS-DD waiver, Claimant bears the burden of proving by a preponderance of the evidence that payment under either program is authorized and warranted. Claimant has not met her burden of proving she is entitled to the funding she seeks.

5. This is a proposed decision rather than a final decision because this case involves funding under the SDP. (Code, § 4712.5, subds. (d) & (e).)

Statutory Framework

6. The Lanterman Act sets forth a regional center's obligations and responsibilities to provide services to individuals with developmental disabilities. As the California Supreme Court explained in *Association for Retarded Citizens v. Department of Developmental Services* (1985) 38 Cal.3d 384, 388, the purpose of the Lanterman Act is twofold: "to prevent or minimize the institutionalization of developmentally disabled persons and their dislocation from family and community" and "to enable them to approximate the pattern of everyday living of nondisabled persons of the same age and to lead more independent and productive lives in the community."

7. The Lanterman Act mandates that an "array of services and supports should be established . . . to meet the needs and choices of each person with developmental disabilities . . . and to support their integration into the mainstream life of the community." (Code, § 4501.) The state pays for the "habilitation services and supports" for persons with developmental disabilities to allow such persons to live in the least restrictive environment possible and toward the achievement and

maintenance of independent, productive, normal life. (Code, §§ 4501, 4502, subd. (a), 4512, subd. (b).)

8. An individual's IPP states the consumer's goals and objectives and delineates the services and supports needed by the consumer. (Code, §§ 4646, 4646.5, 4648.) In implementing an IPP, the regional center must first consider services and supports in the individual's natural community, home, work, and recreational settings. (Code, § 4648, subd. (a)(2).) While regional centers must provide a wide array of services to implement the goals and objectives of the IPP, they are directed by the Legislature to provide only those services reflecting the cost-effective use of public resources, including the use of natural supports. (Code, §§ 4512, subd. (e), 4646, subd. (a)(4); 4648, subd. (2).)

9. The role of parents in providing direct services to their minor children is carefully considered when determining those services and supports to be supplied by the regional center. Code section 4646, subdivision (a)(4), addresses how a regional center shall address the role of family support:

Consideration of the family's responsibility for providing similar services and supports for a minor child without disabilities in identifying the consumer's service and support needs as provided in the least restrictive and most appropriate setting. In this determination, regional centers shall take into account the consumer's need for extraordinary care, services, supports and supervision, and the need for timely access to this care.

///

10. CCR section 54326, subdivision (d)(1), further limits the scope of support provided to minor children. Subdivision (d)(1) provides that a regional center cannot purchase services for a minor child without first taking into account, when identifying the minor child's service needs, the family's responsibility for providing similar services to a minor child without disabilities. However, the regulation permits the use of such funds based on family need or hardship.

SDP

11. The Lanterman Act provides an alternative model for funding services and supports - the SDP model. Code section 4685.8 governs how regional centers deliver services and supports to consumers (also referred to as "participants") and their families participating in the SDP. The purpose of the SDP is to provide consumers (also referred to as 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 IPPs. (Code, § 4685.8, subd. (a).)

12. "Self-determination" is defined as "a voluntary delivery system consisting of a comprehensive mix of services and supports, selected and directed by a participant through person-centered planning, in order to meet the objectives in their IPP. Self-determination services and supports are designed to assist the participant to achieve personally defined outcomes in community settings that promote inclusion. . ." (Code, § 4685.8, subd. (c)(6).)

13. When developing the individual budget used for the SDP, the IPP team determines the services, supports, and goods necessary for each participant, based on the needs and preferences of the participant, and when appropriate the participant's

family, the effectiveness of each option in meeting the goals specified in the IPP, and the cost effectiveness of each option, as specified in Code section 4648, subdivision (a)(6)(D). (Code, § 4685.8, subd. (b)(2)(H)(i).) SDP funds can only be used for services that have been approved by CMS and are not available through generic resources. (Code, § 4685.8, subd. (c)(6), (d)(3)(b).)

14. The issue presented here is whether the SDP allows Claimant to use SDP funds to pay for Mother's direct services. On July 8, 2024, DDS issued a policy directive, the subject of which was "Self-Determination Program: Updated Goods and Services." (See Code, § 4685.8, subd. (p)(2) [program directives have the force of regulations].) Enclosure A to that directive speaks directly to Claimant's claim. DDS states in Enclosure A as follows:

A legally responsible person cannot be paid to provide services. This means, a person who has a legal obligation to care for another person. Legal responsibility is defined by state law, and generally includes the parents (natural or adoptive) of minor children, legally assigned caretaker, relatives of minor children, and sometimes spouses.

(Exhibit 11, p. A37.)

15. Thus, through the directive, DDS has made clear that a parent providing direct services to a minor child cannot be reimbursed as part of the SDP. Regional centers must comply with Department directives, which cannot conflict with any existing statutes or regulations. (Code, § 4639.6.) Mother has not demonstrated that the DDS directive prohibiting payments to parents with minor children for services conflicts with any existing statute or regulation. Moreover, contrary to Mother's claim,

the SDP does not exempt SDP participants with extraordinary needs or requiring extraordinary services from the DDS prohibition against paying parents. For those minor children who require extraordinary care, the SDP allows payment to non-parent providers for respite, housekeeping, and other services to alleviate the parent's burden and to help integrate an SDP participant into the mainstream life of the community.

16. The regulations cited by Mother do not support her contention that parent-provider services to minor children are reimbursable under the SDP. Claimant is not eligible for SLS, as described in CCR section 58614, because she is not yet 18 years old (CCR, § 58613, subd. (a)(1)) and resides in her parents' home; SLS can only be accessed by regional center consumers who own or lease their homes (CCR, § 58613, subd. (a)(2).) Mother is also not eligible to receive direct service payments under the participant-directed services described in CCR section 58886, which allows a consumer to appoint to select their own vendors for a variety of services, including personal assistance. The enclosure to DDS Directive 01-033020, dated March 30, 2020, entitled "Additional Participant-Directed Services" specifically addresses participant-directed "personal assistant services" and states that a personal assistant cannot be the consumer's parent. This prohibition does not appear to have been modified by any more recent directives. Thus, CCR section 58886 makes no allowance for a parent of a minor child to receive payment for personal assistance services, and Mother does not contend she is eligible to be a paid provider under any of the participant-directed services set forth in the regulation.

17. In short, Mother has not demonstrated that the SDP authorizes payments for direct services provided by parents to their minor children. While it is undisputed that Claimant's care needs exceed those of a child of the same age without developmental disabilities, SDP authorizes minor participants to obtain services from

third-party providers to meet those extraordinary needs, not from their parents. The discomfort Mother and Claimant feel with third-party providers is not sufficient to create an exception to SDP requirements. Accordingly, Claimant's request that she be allowed to receive reimbursement for Mother's services outside of the IHSS hours as an exception to SDP service restrictions must be denied.

HCBS-DD Waiver

18. DHCS administers the HCBS-DD Waiver program. The purpose of the HCBS-DD Waiver is to serve participants in their own homes and communities as an alternative to placing Medicaid-eligible individuals in intermediate care facilities for persons with developmental disabilities. According to the DDS brochure explaining the HCBS-DD Waiver, the Waiver waives certain federal Medicaid rules, allowing the state to provide services to people with developmental disabilities in ways that are not available to other people enrolled in Medicaid. (Exhibit 13.)

19. DDS ensures, under the oversight of DHCS, that the HCBS-DD Waiver is implemented by regional centers in accordance with Medicaid law and the State's approved Waiver application. Regional centers implement the HCBS-DD Waiver by conducting individual assessments to establish eligibility, developing, monitoring and updating IPP's in response to changing needs, monitoring the delivery of services, and ensuring the health and safety of HCBS-DD participants.

20. A regional center consumer does not have to participate in the HCBS-DD Waiver program to receive regional center services. The federal funds available under the HCBS-DD Waiver program are not specifically earmarked for consumers who qualify for the program; rather, they are paid to DDS for use in funding Waiver-compliant services. HCBS Waiver participants have access to the same array of services

and supports as available to all regional centers. The services available under the HCBS-DD Waiver program are virtually identical to those offered under the Lanterman Act. With some exceptions not pertinent here, a participant in the HCBS-DD Waiver program is generally not entitled to additional regional center-funded services unavailable under the Lanterman Act.³

21. Mother failed to demonstrate Claimant is eligible to participate in the HCBS-DD Waiver program, and even if eligible, Mother's personal services for Claimant could be compensated. Mother's claim that her past and current services to Claimant outside of her IHSS hours are entitled to reimbursement is not persuasive for the following reasons:

22. First, RCOC reasonably relied on Mother's signature disenrolling Claimant from the HCBS-DD Waiver program. The language of the Waiver Form disenrolling Claimant is unambiguous. (Factual Finding 20.) Nowhere in the Waiver Form is institutionalization mentioned; nor would it make sense that RCOC would even broach the idea of institutionalizing Claimant with Mother at that time.

23. Second, Claimant is currently not eligible to participate in the HCBS-DD Waiver program. As explained by Ms. Kowalski, Claimant must receive an RCOC-funded service to be eligible to participate in the HCBS-DD Waiver program. (Factual Findings 30–32.) Mother has refused to accept any RCOC-funded services for 14 years. (Factual Finding 21.) At Claimant's most recent IPP meeting, although RCOC agreed to

³ For instance, the IPP's for HCBS-DD Waiver program participants are subject to annual review instead of the three year review provided to regional center consumers who do not participate in the Waiver program.

review Mother's request for a bathroom conversion, Mother refused to submit current medical documentation of Claimant's physical needs and failed to appear at a scheduled video consultation. (Factual Finding 17.) Thus, even if Mother had not signed the disenrollment form, Claimant would still be ineligible to participate in the HCBS-DD Waiver program.

24. Third, even if Claimant could participate in the HCBS-DD Waiver program, her participation would not change the types of services and supports RCOC must make available to her or Mother. These services and supports are governed by the IPP provisions found in the Lanterman Act, which does not authorize the compensation of parents providing personal care services to their minor children. There is insufficient evidence to support Mother's contention that the HCBS-DD Waiver authorizes a parent of a minor to provide personal care services for that minor, regardless of the kind of care required. It is unclear from the review of the complete HCBS-DD Waiver Amendment whether such payment was authorized as of January 1, 2025, and the Lanterman Act and DDS Directives do not support Mother's interpretation of the provisions Mother cites. (Factual Findings 24–27.) The testimony of Ms. Kowalski, an experienced specialist in federal programs for regional center consumers, that the HCBS-DD Waiver Program does not authorize such payment cannot be ignored.

25. Fourth, contrary to Claimant's contention, the regulations pertaining to SDS and Participant-Directed Services do not clarify or expand the nature of services provided under the HCBS-DD Waiver program. As noted earlier, SDS is not available to Claimant because she is not yet 18 and she does not own or lease her home. CCR section 58886 only authorizes reimbursement for limited services provided by those parents of minor children who have special qualifications to provide the services, such

as nursing and transportation. CCR section 58886 does not authorize payment for parent-provided day care services, respite services, or personal assistant services based on the pertinent DDS directives, which among other things, make clear that a parent cannot be reimbursed for providing personal assistant services to a minor claimant. (See Legal Conclusion 16.)

26. Accordingly, considering Mother's signature disenrolling Claimant from the program, Claimant's failure to utilize an RCOC-funded ineligibility for the past 14 years, the ambiguous language in the HCBS-DD Waiver Amendment, and the DDS Directives that prohibit funding personal services provided by parents of minor children, Mother's demand for enrollment in the HCBS-DD Waiver program is denied. Additionally, even if the HCBS-DD Waiver Amendment can be interpreted to authorize compensation to parents of minor children, the Amendment did not become effective until January 1, 2025, and thus Mother is not entitled to retroactive compensation for her past services to Claimant.

Disposition

27. It is undisputed that Claimant has extraordinary needs, and Mother has provided and continues to provide a valuable service by caring for Claimant. However, DDS, through the traditional service model and the SDP, has thus far authorized payment to only non-parent service providers to address Claimant's extraordinary needs. It is Mother's choice not to utilize those services.

28. Claimant has not proved that the Lanterman Act, its accompanying regulations, and DDS policy directives contain an exception to DDS's stated policy of prohibiting payments to parents who provide personal care services to their minor children. There is also insufficient evidence to support Mother's contention that the

HCBS-DD Waiver Amendment authorizes such payments as of January 1, 2025. Thus, Mother is currently not entitled to receive payment from RCOC for providing direct personal care to Claimant during the hours not covered by IHSS. Whether Mother is eligible to receive payment for her personal services to Claimant under the HCBA Waiver program is controlled by DHCS and thus outside the jurisdiction of DDS.

ORDER

1. Claimant's appeal is denied.
2. Mother is not entitled as Claimant's sole service provider to receive payment for her services to Claimant under the Self-Determination Program while Claimant is a minor.
3. Mother is currently ineligible to participate in the HCBS-DD Waiver program. Mother's eligibility may be reconsidered if DDS authorizes payment for personal services provided by parents of minor children under the HCBS-DD Waiver or if Mother decides to accept an RCOC-funded service on Claimant's behalf.
4. Mother is not entitled to retroactive compensation under the HCBS-DD Waiver program for her care of Claimant.

DATE:

CINDY F. FORMAN
Administrative Law Judge
Office of Administrative Hearings

BEFORE THE
DEPARTMENT OF DEVELOPMENTAL SERVICES
STATE OF CALIFORNIA

In the Matter of:

Claimant

OAH Case No. 2025070280

Vs.

DECISION BY THE DIRECTOR

Regional Center of Orange County

Respondent.

ORDER OF DECISION

On August 22, 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 September 17, 2025.

Original signed by:
Katie Hornberger
Deputy Director, Division of Community Assistance and
Resolutions