

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

In the Matter of:

CLAIMANT

and

TRI-COUNTIES REGIONAL CENTER,

Service Agency.

DDS No. CS0029379

OAH No. 2025080902

PROPOSED DECISION

Maria Palomares, Administrative Law Judge, Office of Administrative Hearings, State of California, heard this matter by videoconference on January 23, 2026.

Claimant was represented by her mother (Mother), who also served as her authorized representative. The names of the Claimant and her family members are omitted to protect their privacy.

///

///

Elizabeth Lopez, Services and Supports Manager, represented Tri-Counties Regional Center (Service Agency).

Oral and documentary evidence was received. The record closed, and the matter was submitted for decision at the conclusion of the hearing day.

ISSUE

Whether Service Agency shall increase Claimant's Self-Determination Program (SDP) budget to fund additional respite services for the 2025–2026 year.

EVIDENCE RELIED UPON

Documents: Service Agency's Exhibits 2-7, 9-10. Claimant's Exhibits A-N.

Testimonial: Olga de Loza, Services and Supports Manager; Veronica Rodriguez-Torres, Service Agency Manager; Mother; and Father.

FACTUAL FINDINGS

Parties

1. Regional centers, such as Service Agency, determine eligibility and fund services and supports for individuals with developmental disabilities under the Lanterman Developmental Disabilities Services Act (Lanterman Act or Act). (Welf. & Inst. Code, § 4500 et seq.)

///

2. Claimant is an 11-year-old girl who lives with her parents and two siblings. She receives Service Agency services based on a diagnosis of mild intellectual disability. (Exh. 6, p. A27.)

Jurisdiction

3. On June 10, 2025, Mother requested additional respite hours.

4. On August 14, 2025, Service Agency denied the request, stating there was “not a change of circumstances” that would require a change in the budget. (Exh. H, pp. B20-B21.)

5. Claimant timely requested a hearing.

Individual Program Plan

6. On June 23, 2025, Mother and the Service Agency completed an Individual Program Plan (IPP), which is a written agreement that identifies the consumer’s goals and specifies the services and supports needed to achieve those goals. (Exh. 2, pp. A7, A14.)

7. The IPP notes that Claimant needs substantial assistance with activities of daily living and has chosen to participate in SDP, an alternative method of choosing and receiving services available to regional center consumers. (Exh. 2, p. A8.) In the IPP plan, the IPP team noted that Claimant exhibited unsafe behaviors, including climbing on furniture, chewing on her hand, and eloping. In addition, it noted that “[a] new behavior, head-hitting, has emerged within the past six months.” (Exh. 2, pp. A8–A9.)

///

///

SDP Individual Budget

8. Claimant's SDP budget is \$74,780.54 for September 2025 through August 2026. (Exh. 5, p. A26.) It allocates funds for summer camps, social recreation, 30 hours per month of respite, personal assistance, day care, and floor time therapy. (Exh. 4, p. A24.) Respite pay is calculated at \$30.77 per hour for a total of \$13,327.20.

SDP Spending Plan

9. Claimant's plan allocates 1,500 hours of respite per year (125 hours per month) at \$31.25 per hour, totaling \$46,875—about 63 percent of the budget. (Exh. 5, p. A25.) It also allocates 191 hours of floor time therapy services to be provided by the Center for Developmental Play and Learning, for a line-item total of \$24,066. (Exh. 5, p. A25.) The plan provides limited funds for summer camps and social recreation. (Exh. 5, p. A25.)

Claimant's Weekly Schedule

10. Claimant receives 283 hours per month of In-Home Supportive Services (IHSS), attends homeschool with an aide, and participates in day care, floor time therapy, personal assistance, and extracurricular activities.

11. Claimant's weekly schedule during the school year includes IHSS services from midnight to 8 a.m. daily, school from 8 a.m. to 2 p.m., day care from 2 p.m. to 5 p.m., floor time therapy on Tuesdays for two hours, personal assistance for about six hours per week, eight hours of respite per week, and three hours of extracurricular activities. (Exhs. 3, A22–A23; G, pp. B16–B17.)

///

Claimant's Request for More Respite Services

12. Father and Mother testified. Father stated that Claimant has an unmet need of 1,110 hours of respite per year at a rate of \$35 per hour. He explained that this total combines unmet need during the school year with increased need during summer break. Specifically, he calculated 185 non-school days multiplied by six hours per day, when Claimant receives no services or supports. (Exh. K, p. 47.)

13. Mother explained that caring for Claimant has become increasingly taxing as Claimant grows older. Mother's exhaustion is compounded by her responsibility as her father's IHSS provider. Mother said she cannot take Claimant with her to care for her father because Claimant can no longer be contained in a stroller. Mother also works outside the home, cares for Claimant's two siblings, who also require more attention as they get older, and is experiencing her own mental health and well-being concerns. (Exh. A, p. B1.)

14. Mother and Father detailed that Medi-Cal approved 336 hours of respite care after the 2025-2026 budget and plan were established. The family has not used the 336 hours because they cannot find someone willing to work for the Medi-Cal rate of \$17.72 per hour. (Ex. E, pp. B6-B12.) Claimant's current respite worker is paid \$31.25 per hour and will not accept the reduced rate. (Exh. C, p. B4.)

15. Claimant's need for respite has increased because her behaviors have become more intense as she ages. During the school year, Claimant has approximately 28 hours each week without services or supports after school hours, creating gaps that require parental care and supervision. These gaps reflect the family's responsibility to provide care similar to what parents ordinarily provide to a minor child, and do not demonstrate a need for extraordinary services beyond that responsibility.

Service Agency's Denial of Increased Respite Services

16. At the hearing, Ms. Rodriguez-Torrez, Service Agency Manager, and Ms. De Loza, Services and Support Manager, testified. Ms. De Loza stated that Service Agency initially denied Claimant's request for additional respite hours because it found no change in diagnosis or care needs beyond what the current budget already addresses.

17. Ms. De Loza stated that Service Agency reconsidered Claimant's needs and assisted in securing 336 additional Medi-Cal respite hours because some of the increased need stems from Claimant. However, they said that the parents' additional exhaustion largely results from other responsibilities, such as caring for Mother's father and Claimant's siblings, which the agency did not consider when determining services.

18. Ms. Rodriguez-Torrez stated that Service Agency does not control Medi-Cal's payment rate and considers the 336 approved Medi-Cal respite hours, together with the existing budget, sufficient to meet Claimant's increased respite need. She noted that the current budget covers floor time therapy, ABA services, summer camps, and after-school activities. She also emphasized that SDP gives families flexibility to allocate funds as they choose. According to Ms. Rodriguez-Torrez, any additional summer need results from the family's decision to redirect funds originally earmarked for camps to other areas.

19. Finally, Ms. Rodriguez-Torrez stated that respite is intended to provide caregivers temporary relief, not to address behavioral issues. If the family needs support for increased behaviors, the appropriate service would be additional ABA or similar therapies, not respite.

///

LEGAL CONCLUSIONS

Statutory Framework

1. The Lanterman Act (Welf. & Inst. Code, § 4500 et seq.) requires regional centers to provide services and supports that enable individuals with developmental disabilities to live more independent and productive lives in the community. The Lanterman Act's purpose is "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." (*Association for Retarded Citizens v. Dept. of Developmental Services* (1985) 38 Cal.3d 384, 388.)

2. 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." (Welf. & Inst. Code, § 4501.)

3. Respite services are specifically included in the definition of "services and supports" under Welfare and Institutions Code section 4512, subdivision (b). Respite is defined as intermittent or regularly scheduled temporary care provided to a consumer to relieve the family or caregiver. (Welf. & Inst. Code, § 4512, subd. (b); Cal. Code Regs., tit. 17, § 54302, subd. (a)(49).)

Jurisdiction

4. Under the Lanterman Act, a consumer may request an administrative fair hearing to resolve disputes regarding services and supports provided by a regional center or service agency. (Welf. & Inst. Code, §§ 4710–4714.) Claimant timely and

properly requested such a hearing, and therefore, jurisdiction for this case was established.

Burden and Standard of Proof

5. 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.)

6. In seeking additional funding for respite services, Claimant bears the burden of proving by a preponderance of evidence that the requested services are warranted.

IPP

7. An individual's IPP states the consumer's goals and objectives and delineates the services and supports needed by the consumer. (Welf. & Inst. 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. (Welf. & Inst. 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. (Welf. & Inst. Code, §§ 4512, subd. (e), 4646, subd. (a)(4); 4648, subd. (2).)

8. The services and supports provided must be effective in meeting the plan's goals and reflect the consumer's preferences and choices, as well as the cost-effective use of public resources. (Welf. & Inst. Code, § 4646, subd. (a); *Harbor Regional Center v. Office of Admin. Hearings* (2012) 210 Cal.App.4th 293, 307.)

9. The role of parents in providing services to their minor children is carefully considered when determining which services and supports are to be supplied by the regional center. In purchasing such services, regional centers must ensure:

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.

(§ 4646.4, subd. (a)(4).)

10. California Code of Regulations, title 17 (Regulation), section 54326, subdivision (d)(1), further limits the scope of support provided to minor children. Regulation section 54326, subdivision (d)(1) provides that a regional center cannot purchase services for a minor child without first considering 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. As noted in the Factual Findings, there is an alternative model for funding services and supports, the SDP model. Welfare and Institutions Code section 4685.8 governs how regional centers deliver services and supports to consumers and their families participating in the SDP. The purpose of the SDP is to provide consumers and their families, with 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. (Welf. & Inst. 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. (Welf. & Inst. Code, § 4685.8, subd. (c)(6).)

13. In SDP, an “individual budget” is the amount of funding the regional center makes available for a participant to purchase the services and supports needed to carry out their IPP. (Welf. & Inst. Code, § 4685.8, subd. (c)(3).)

14. Under SDP, the IPP team determines the initial and any revised individual budget using the methodology in Welfare and Institutions Code section 4685.8(m)(1)(A)(i)–(ii). For current regional center consumers, the initial budget equals the total amount of the most recent 12 months of purchase-of-service authorizations, plus services authorized but not yet provided, minus one-time expenses and services paid outside SDP. Adjustments may be made for changes in circumstances, needs, or resources, provided the regional center certifies that the expenditures would have occurred regardless of SDP participation. All adjustments must be documented in the IPP. (Welf. & Inst. Code, § 4685.8, subds. (m)(1)(A)(i)–(ii).)

15. A spending plan must specify how the individual budget will be allocated across the services and supports identified in the IPP. (Welf. & Inst. Code, § 4685.8, subd. (c)(7).)

16. SDP funds shall only be used when generic services and support are not available. (Welf. & Inst. Code, § 4685.8, subd. (d)(3)(B).)

Disposition

17. Claimant has not shown that she requires an additional 1,100 respite hours for the 2025–2026 budget. Parents did not account for their statutory responsibility to provide care similar to what parents ordinarily provide to a minor child without disabilities, as discussed in Factual Finding 15. The summer gaps caused by school recess have already been addressed in the budget. Although the family shifted funds from camps and other summer services to increase respite and day care, that decision did not eliminate the parents' obligation to provide care for Claimant.

18. Mother and Father argued that the family faces significant hardship beyond Claimant's direct needs. Family hardship is a relevant factor under the regulations, and it does not appear Service Agency considered this factor in assessing the family's request for additional respite. Service Agency focused on Claimant's needs and attempted to address the increased respite requirement by securing 336 Medi-Cal respite hours as a generic resource. Those hours would have covered the additional respite need and accounted for the family's hardship if they were usable. However, they remain unused because the Medi-Cal rate is too low to attract providers, leaving an unmet need despite the allocation.

19. As the 336 Medi-Cal hours cannot be used at the approved rate, the record establishes a shortfall of 174 respite hours for the 2025–2026 period. The

Lanterman Act and SDP require regional centers to use generic resources first and then cover any remaining gap. When a generic resource cannot be accessed in practice, Service Agency must address that shortfall to ensure continuity of care. This obligation reflects the Legislature’s directive that, “[w]here developmentally disabled children are concerned, the Legislature has mandated even greater flexibility in order to keep such children at home whenever possible.” (*Harbor Regional Center v. Office of Administrative Hearings* (2012) 210 Cal.App.4th 293, 307.) Increasing the budget for respite care by 174 hours—calculated as the difference between Medi-Cal’s rate of \$17.72 and the Service Agency’s rate of \$36.77—strikes this balance and fulfills the statutory mandate.

20. Accordingly, Service Agency shall increase Claimant’s 2025–2026 budget to fund 174 hours of additional respite services.

ORDER

Service Agency shall increase Claimant’s 2025-2026 budget to fund 174 additional hours for the year in respite services and supports.

DATE:

MARIA PALOMARES
Administrative Law Judge
Office of Administrative Hearings

BEFORE THE
DEPARTMENT OF DEVELOPMENTAL SERVICES
STATE OF CALIFORNIA

In the Matter of:

Claimant,

OAH Case No. 2025080902

vs.

DECISION BY THE DIRECTOR

Tri-Counties Regional Center,

Respondent.

ORDER OF DECISION

On January 30, 2026, an Administrative Law Judge (ALJ) at the Office of Administrative Hearings (OAH) issued a Proposed Decision in this matter.

After a full and independent review of the record in this case, and for the reasons explained below, the attached Proposed Decision is MODIFIED as follows:

1. California Code of Regulations (CCR), Title 17, section 54326 subdivision (d)(1), requires Tri-Counties Regional Center (TCRC) to provide for exceptions, based on family need or hardship, when considering family responsibility for providing similar services to a minor child without disabilities, as part of its determination of which services to purchase for a minor child. TCRC failed to consider claimant's family need or hardship in its determination of whether claimant is entitled to an increase in respite hours. As a result, both parties shall have an Individual Program Plan (IPP) meeting within 30 calendar days from the date of this Order of Decision to evaluate and discuss how many additional, if any, respite hours claimant is entitled to, with consideration of claimant's family need or hardship consistent with CCR, Title 17, section 54326 subdivision (d)(1).
2. The ALJ's ruling that TCRC shall increase claimants' 2025-2026 budget to fund 174 hours of additional respite services is REJECTED. The ALJ failed to provide a legal basis in how the ALJ calculated the 174 hours of additional respite hours by specifically combing two separate rates, Medi-Cal's rate of \$17.72 and Service Agency's rate of \$36.77.
3. Paragraph 19 of page12, is stricken from the record.

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. Regardless of whether an SDP participant intends to purchase services

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: February 23, 2026.

Original signed by

Katie Hornberger, Deputy Director
Division of Community Assistance and Resolutions