

Notice:

Certain potentially identifying information has been redacted from the decision for purposes of its public posting.

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

In the Consolidated Matters of:

Claimant 1,

and

REGIONAL CENTER OF THE EAST BAY, Service Agency.

DDS No. CS0029609

OAH No. 2025090030

and

Claimant 2,

and

REGIONAL CENTER OF THE EAST BAY, Service Agency.

DDS No. CS0029608

OAH No. 2025090037

PROPOSED DECISION

Administrative Law Judge Michael C. Starkey, State of California, Office of Administrative Hearings, heard these consolidated matters on October 28, 2025, in San Leandro, California.

Claimants 1 and 2 were represented by their parents.

Denise Underwood appeared for service agency Regional Center of the East Bay (RCEB).

The matters were submitted for decision on October 28, 2025.

Based on the evidence submitted at hearing, it appeared that claimants' fair hearing requests were not timely filed. The undersigned issued an order dated November 3, 2025, reopening the record through November 17, 2025, for the parties to submit evidence and written argument on this issue.

Claimant submitted a declaration which was marked as Exhibit L and admitted into evidence.

The record closed and the matters were submitted for decision on November 17, 2025.

ISSUE

Must RCEB allocate funds in claimants' Self-Determination Program spending plans for remote executive functioning coaching, remote tutoring, and rideshare

services while they attend college out of state? If so, must RCEB reimburse claimants or their parents for costs expended on such services?

FACTUAL FINDINGS

Introduction and Procedural History

1. Claimants 1 and 2 are fraternal twin brothers, 22 years of age.
2. Both were deemed eligible for RCEB services approximately eight or nine years ago, based on autism.
3. On May 6, 2025, RCEB issued substantially identical notices of action and letters denying requests to allocate funds in claimants' self-determination program spending plans for remote executive functioning coaching, remote tutoring, and rideshare services to claimants. At hearing, the parties agreed that the denial only encompasses the allocation of funds for such services to claimants while they are physically outside of the State of California.
4. Claimants timely appealed RCEB's denials and this proceeding followed.

Claimants' 2022 IPP's

5. On October 27, 2022, Individual Program Plans (IPP's) were completed for each claimant.
6. Claimant 1's 2022 IPP stated that he had been diagnosed with autism, attention deficit hyperactivity disorder (ADHD), depression, anxiety, dyslexia, and executive function impairment and he was attending college in "Redacted", but

remained a California resident. The IPP stated that Claimant 1's parent would provide support while Claimant 1 was "away at school 10/01/22 through 10/31/25."

7. Claimant 2's 2022 IPP stated that he had been diagnosed with autism, ADHD, depression, anxiety, dyslexia, and executive function impairment and he was attending college at "Redacted" in "Redacted", but remained a California resident. The IPP stated that Claimant 2's parent would provide support for Claimant 2 through October 31, 2025.

8. At hearing, claimants' mother reported that no services were funded during this period because claimants were both out of state.

SDP and the Current Dispute

9. Claimants desired to enter the Self-Determination Program (SDP) and their mother took the necessary steps, including completing the mandatory training in June 2023. Spending plans for claimants were submitted by December 2024. At hearing, claimants' mother expressed frustration with the amount of time and trouble it took to get claimants into the SDP program and also because RCEB denied the three services at issue in 2025, based on information (that claimants attend college out of state) known to RCEB since 2022.

10. The current spending plan for Claimant 1 was executed on January 28, 2025. It covers the period February 1, 2025, through January 31, 2026. The total budget stated is \$49,573.19, including \$6,720 for remote executive functioning coaching, \$25,600 for remote tutoring, and \$2,733.19 for rideshare services (under the code for "Non-Medical Transportation").

11. The current spending plan for Claimant 2 was also executed on January 28, 2025, and covers the same period. The total budget stated is \$46,419.19. including \$5,200 for remote executive functioning coaching, \$22,400 for remote tutoring, and \$3,639.19 for rideshare services. Both claimants have been in the SDP since February 1, 2025.

12. A draft IPP for Claimant 1, with a meeting date of March 12, 2025, stated that Claimant was a computer science major at "Redacted" in "Redacted", living off-campus with roommates in a home provided by the college. It also states that Claimant 1 has been diagnosed with "central auditory processing disorder," in addition to the diagnoses discussed in Factual Finding 6.

13. A draft IPP for Claimant 2, with a meeting date of March 27, 2025, stated that Claimant 2 was attending college at "Redacted" in "Redacted", living on campus with roommates in an apartment, majoring in classics and minoring in chemistry, doing very well in school, and hoping to go to medical school. It also states that Claimant 1 has been diagnosed with "central auditory processing disorder," in addition to the diagnoses discussed in Factual Finding 7.

14. Claimants' mother reports that both claimants have also been diagnosed with dysgraphia (a learning disability affecting the ability to write). Claimants both received special education services starting in middle school, based on their autism and ADHD diagnoses.

15. The 2025 IPP's have never been finalized, due to the instant dispute, but claimants are receiving the services that are not in dispute.

16. It is undisputed that claimants remain California residents.

17. Regarding the remote executive functioning coaching and the remote tutoring services at issue, it is undisputed that the providers are physically located in California and claimants receive these services while they are physically located out of state (Claimant 1 in "Redacted" and Claimant 2 in "Redacted").

18. The rideshare services are provided out of state.

19. Claimants' mother credibly testified that claimants' parents have been paying "out of pocket" for all three disputed services for each claimant but did not report the amount of these costs or submit documentation of these costs.

20. Claimants' mother describes claimants as "highly gifted," but also facing many challenges. She reports that she has been advocating for claimants since they were eight years old and that it was nearly a full-time job researching all the possible schools and programs in order to find the "right fit" for claimants' unusual needs.

21. Claimants' mother reports that Claimant 2 needed to attend a small college with "extra supports for neurodiverse students." She reported that he had problems at his local public high school and had to transfer to a small private school for neurodiverse students, where he then thrived. She reports that "Redacted" has such a program (called "College Access Navigators") which provides weekly assistance and peer mentoring. She reports that, because of this program, Claimant 2 is thriving there as well. She reports that this program provides assistance with his autism spectrum disorder (ASD) and ADHD needs.

22. Claimants' mother reports that Claimant 1 also needs a small school environment and "Redacted" is a small school with Claimant 1's preferred major—computer science. She reports that, although "Redacted" does not have a program specifically for neurodiverse students, it has more traditional supports for students

with disabilities and also has an "innovative delivery" of education that features seven-week terms and more "hands on" learning. She reports that Claimant 1 finds this very helpful.

23. Claimants' mother reports that there are colleges in California that offer a computer science major, but most are very large schools and Claimant 1 did not get into most of them. Claimants' mother reports that sending claimants out of state for college was not a decision the family took lightly, but they were unable to find the "right fit" for claimants in California. She reports that Claimant 1 applied to "a number of" University of California (UC) and "Cal State" schools, but only got into one, and he did not turn down a school in California with a program similar to "Redacted".

24. For unspecified reasons, Claimant 1 is taking a leave of absence from "Redacted" this school year and is currently living in California with his parents.

25. Claimants' parents testified that they are aware that other regional center clients are receiving the types of funding at issue in this proceeding.

26. Lindsay Menninger, the Associate Director of Client Services for RCEB, testified at hearing. Menninger acknowledges that there was an oversight and claimants' case manager should have understood that claimants were attending college out of state and the disputed issues should have been identified earlier.

27. Menninger opined that neither college at issue is specific to neurotypical students. She opined that each may offer helpful services, but California has many colleges with helpful options. Menninger admitted that RCEB had not conducted a comprehensive analysis of options for claimants. She explained that claimants did not consult RCEB when choosing colleges and the spending plans were created before RCEB realized that they were attending college out of state. Menninger reported that,

based on her experience, there are programs in California similar to those described by claimants' mother.

28. On cross-examination, Menninger testified that there are similar programs at UC Berkeley and other colleges, but admitted that she did not know if those programs offered bachelor's degrees. Claimants' mother credibly reports that she is familiar with those "supplemental" programs, they do not offer bachelor's degrees and are not appropriate for gifted students like claimants.

LEGAL CONCLUSIONS

1. The State of California accepts responsibility for persons with developmental disabilities under the Lanterman Developmental Disabilities Services Act (Welf. & Inst. Code, § 4500, et seq.) (Act). The purpose of the Act is to rectify the problem of inadequate treatment and services for the developmentally disabled, and to enable developmentally disabled individuals to lead independent and productive lives in the least restrictive setting possible. (*Id.* §§ 4501, 4502; *Association for Retarded Citizens v. Department of Developmental Services* (1985) 38 Cal.3d 384.) The Act is a remedial statute; as such it must be interpreted broadly. (*California State Restaurant Association v. Whitlow* (1976) 58 Cal.App.3d 340, 347.)

2. The 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.) Regional centers have the responsibility of carrying out the state's responsibilities to the developmentally disabled under the Act. (*Id.* § 4620, subd. (a).) The Act directs regional centers to develop and implement an

IPP for each individual who is eligible for services, setting forth the services and supports needed by the consumer to meet his or her goals and objectives. (*Id.* § 4646.) The determination of which services and supports are necessary is made after analyzing the needs and preferences of the consumer, the range of service options available, the effectiveness of each option in meeting the goals of the IPP, and the cost of each option. (*Id.* §§ 4646, 4646.5 & 4648.)

3. As claimants are seeking to establish eligibility for government benefits or services, they have the burden of proving by a preponderance of the evidence that they are entitled to such services. (See *Lindsay v. San Diego Retirement Bd.* (1964) 231 Cal.App.2d 156, 161 [disability benefits]; Evid. Code, § 500.)

Out-Of-State Services

4. The Lanterman Act restricts regional centers' authority to expend funds it receives from the Department of Developmental Services (Department or DDS) to purchase services outside California. Specifically (with exceptions that do not apply to claimants), Welfare and Institutions Code section 4519 permits RCEB to purchase such out-of-state services only with approval from the DDS Director. Moreover, section 4519 permits the DDS Director to approve such out-of-state service purchases only if "the proposed service or an appropriate alternative, as determined by the director, is not available from resources and facilities within the state." (Welf. & Inst. Code, § 4519, subd. (a).)

5. If a consumer asks a regional center to purchase out-of-state services, the regional center must evaluate the consumer's request with reference to "options to serve the consumer in California." (Welf. & Inst. Code, § 4519, subd. (a).) The regional center may ask the DDS Director to approve such an out-of-state service purchase

only if the regional center has conducted a “comprehensive assessment” and supports its request with “details regarding all options considered and an explanation of why these options cannot meet the consumer’s needs.” (*Ibid.*) The DDS Director may authorize a regional center to purchase out-of-state services for six months, with extensions available only upon similar comprehensive re-assessment. (*Ibid.*)

6. It is undisputed that RCEB did not conduct a comprehensive assessment of whether claimants’ needs could be met while they were physically in California, nor did RCEB ask the Director to approve an out-of-state service purchase. Contrary to claimants’ arguments, regional centers are not required to conduct such an assessment if there is a clear bar to funding the services in question. Regional centers are under no obligation to ask the Director for approval of out-of-state funding unless they have concluded such funding is warranted. RCEB contends a DDS directive conclusively bars the out-of-state funding requested by claimants.

REMOTE OUT-OF-STATE SERVICES

7. On November 22, 2023, DDS issued a document with the subject line “SELF-DETERMINATION PROGRAM: REMOTE SERVICES,” signed by the Deputy Director. In this document, DDS states, in relevant part:

The purpose of this correspondence is to provide guidance on the provision of remote services in the Self-Determination Program (SDP). Remote services refers to a method of service delivery through the use of two-way, real-time technology (telephone or video visit), while the provider is not at the same physical location as the participant. This guidance is issued pursuant to Welfare and

Institutions Code section 4685.8(p)(2) which authorizes the Department of Developmental Services to issue program directives or similar instructions until regulations are adopted.

SDP services, including pre-enrollment transition supports, may be provided remotely when the delivery of such services meet all the below requirements:

¶ . . . ¶

- The participant is physically in California at the time remote services are utilized, even when the provider is in another state.

8. RCEB argues that this document is a Directive from DDS and it requires an SDP participant to be physically within the state of California to be eligible to receive remote services from a regional center. Claimant argues that this document is not a Directive because the author calls it "correspondence" and "guidance."

9. Welfare and Institutions Code section 4685.8 mandated the creation of the SDP. Subdivision (p)(2) provides authority for the Department to:

implement, interpret, or make specific this section by means of program directives or similar instructions until the time regulations are adopted. It is the intent of the Legislature that the department be allowed this temporary authority as necessary to implement program changes only until completion of the regulatory process.

10. Although the use of the terms "correspondence" and "guidance" in the November 22, 2023, document inject some ambiguity, the Deputy Director's citation of Welfare and Institutions Code section 4685.8, subdivision (p)(2), and use of the word "directive" show that this document is a Directive of the Department.

11. Claimants point to a November 30, 2023, Directive issued by the Director of the Department entitled "REMOTE SERVICES," in which the Director stated that, due to staffing shortages it may continue to be necessary to allow regional center consumers to continue to receive remote services and that consumers may choose remote delivery of the following services, through June 30, 2025: day programs; "Look-a-like day programs"; independent living services; behavioral therapy services; and clinical assessments for eligibility purposes. Claimant argues that pursuant to this Directive and the overall mandate of the Act to respect the choices of regional center consumers, RCEB must fund remote executive functioning coaching and remote tutoring for claimants.

12. The November 30, 2023, Directive regarding remote services applies to all regional center consumers and thus does not supersede the much narrower restrictions of the November 22, 2023, Directive, which apply only to SDP participants.

13. Claimants argue that, even if the November 22, 2023, document were found to be a Directive, it would restrict services to an extent not permitted by the Act. (See *Association for Retarded Citizens v. Department of Developmental Services, supra*, 38 Cal.3d 384; *Clemente v. Amundson* (1998) 60 Cal.App.4th 1094; *Shelby v. Dept. of Motor Vehicles* (1980) 110 Cal.App.3d 470, 474-75.)

14. Section 4519 sharply restricts the funding of out-of-state services generally, evidencing the Legislature's disfavor of such funding. The SDP program

allows participants to fund services from non-vendors and otherwise lessens the fiscal guardrails ensuring the appropriate use of taxpayer funds. There is no evidence that the regulatory process regarding the SDP program has been completed. Claimants have not shown that the November 22, 2023, Directive is not authorized by, or is inconsistent with, the Act. The November 22, 2023, Directive is valid and has the force of law equivalent to a regulation, until completion of the regulatory process. (See Welf. & Inst. Code, § 4685.8, subd. (p)(2).) Accordingly, regional centers may not fund remote services for SDP participants unless the participant is physically in the State of California. Claimants' appeal, as to RCEB's denial of funding for remote executive functioning coaching and remote tutoring services while claimants attend college out of state, must be denied.

IN-PERSON OUT-OF-STATE SERVICES

15. The rideshare services for which claimants requested funding are out-of-state services, but not remote services. Accordingly, both the November 22 and 30, 2023, Directives are inapplicable. Pursuant to Welfare and Institutions Code section 4519, the issue is whether these out-of-state services are necessary to meet claimants' needs. RCEB does not dispute that claimants need the rideshare services while attending their out-of-state colleges, but Menninger testified that claimants did not need to attend college outside of California.

16. As to Claimant 1, the evidence does not show that his needs arising from autism, his eligible condition, could not have been met in California. Claimants' mother admitted that "Redacted" does not have a program specifically for neurodiverse students. She reported that it offers "innovative delivery" of education that features seven-week terms and more "hand on" learning, which Claimant 1 finds helpful. No evidence showed whether Claimant 1 finds this modality helpful due to his autism,

ADHD, depression, anxiety, dyslexia, dysgraphia, executive function impairment, central auditory processing disorder, or some combination. As such, the evidence does not show that he needs to attend college out-of-state, because of an eligible condition.

17. As to Claimant 2, a preponderance of the evidence established that his need for rideshare services out-of-state arises from autism, his eligible condition, and this need could not have been adequately met in California. Claimant 2 had to transfer to a small private high school for neurodiverse students, "Redacted" has a similar program which provides weekly assistance and peer mentoring for both his autism and ADHD needs, and Claimant 2 is thriving there. Menninger's testimony that similar programs exist in California was undercut by her admission that she does not know if such programs offer bachelor's degrees. Claimants' mother credibly testified that her extensive research showed that there is no similar program in California.

ORDER

The appeal of Claimant 1 is denied.

1. RCEB is not authorized to fund remote executive functioning coaching or remote tutoring services to Claimant 1 while he is not physically in the State of California.

2. RCEB is not authorized to fund rideshare services for Claimant 1 while he is outside the state of California.

The appeal of Claimant 2 is denied in part and granted in part.

1. RCEB is not authorized to fund remote executive functioning coaching or remote tutoring services to Claimant 2 while he is not physically in the State of California.

2. RCEB shall fund the disputed rideshare services for Claimant 2 while he attends "Redacted" in "Redacted", including reimbursement to his parents for such costs incurred after February 1, 2025, to the extent Claimant 2 documents such costs. Pursuant to Welfare and Institutions Code section 4519, funding of the disputed rideshare services is approved for a period of no more than six months, starting on the effective date of this decision. Any extension shall be based on a new and complete comprehensive assessment of Claimant 2's needs, review of available options, and a determination that the consumer's needs cannot be met in California. An extension shall not exceed six months.

DATE:

MICHAEL C. STARKEY
Administrative Law Judge
Office of Administrative Hearings

BEFORE THE
DEPARTMENT OF DEVELOPMENTAL SERVICES
STATE OF CALIFORNIA

In the Consolidated Matters of:

Claimant 1

and

Claimant 2

OAH Case Nos. 2025090030 & 2025090037

vs.

DECISION BY THE DIRECTOR

Regional Center of East Bay,

Respondent.

ORDER OF DECISION

On December 1, 2025, 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 REJECTED in part, ADOPTED in part, and MODIFIED in part based on the following:

1. The ALJ's ruling denying Claimant 2's and Claimant 1's request that Regional Center of East Bay (RCEB) fund remote executive functioning coaching or remote tutoring services while Claimant 1 and Claimant 2 are not physically in California, including reimbursement to Claimant 2's and Claimant 1's parents for such costs incurred after February 1, 2025, to the extent Claimant 2 and Claimant 1 documents such costs, is REJECTED. Welfare and Institutions Code section 4519, subdivision (a), states that the Department of Developmental Services (Department) or the Regional Center shall not expend funds for the purchase of any service outside the state unless the Director of the Department has approved a plan for out of state service in the individual's individual program plan (IPP) developed pursuant to sections 4646 to 4648. The purpose of this out of state funding restriction on regional centers is to prevent California taxpayer monies from funding services outside of the state when there are similar services in California that can address an individual's needs. Claimant 2 and Claimant 1 will both receive remote executive functioning coaching and remote tutoring services from California based providers.

Therefore, the remote services is not “out of state” for the purposes of Welfare and Institutions Code section 4519, subdivision (a).

2. The ALJ’s ruling granting Claimant 2’s request that RCEB fund rideshare services for him while he is outside of California, including reimbursement to his parents for such costs incurred after February 1, 2025, to the extent Claimant 2 documents such costs, is ADOPTED and MODIFIED. RCEB shall conduct a comprehensive assessment of whether Claimant 2’s needs can be met in California and submit a written request to the Department for approval as outlined in Welfare and Institutions Code section 4519, subdivision (a), within 30 calendar days of the date of this Final Decision.
3. The ALJ’s ruling that pursuant to Welfare and Institutions Code section 4519, funding of the rideshare services for Claimant 2 is approved for a period of no more than six months, starting on the effective date of this decision, is MODIFIED as follows: RCEB shall fund the rideshare services for Claimant 2, while he attends “Redacted” in “Redacted”, for up to 30 calendar days from the date of this Final Decision.
4. The ALJ’s ruling denying Claimant 1’s request that RCEB fund rideshare services for him while he is outside of California, including reimbursement to his parents for such costs incurred after February 1, 2025, to the extent Claimant 1 documents such costs, is ADOPTED and MODIFIED. RCEB shall conduct a comprehensive assessment of whether Claimant 1’s needs can be met in California and submit a written request to the Department for approval as outlined in Welfare and Institutions Code Section 4519, subdivision (a), within 30 calendar days upon a renewed request from Claimant 1. for such services in returning to school in “Redacted” or another out-of-state school.

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.

ORDER

Claimant 2's and Claimant 1's appeal of RCEB's denial of remote executive functioning coaching and remote tutoring services is GRANTED. RCEB shall fund the remote executive functioning coaching and remote tutoring services to both claimants while they are not physically in California and receiving services from a service provider based in California, including reimbursement to Claimant 1 and Claimant 2's parents for such incurred documented costs of remote executive functioning coaching and remote services starting from February 1, 2025. Claimant 2's appeal of RCEB's denial of his request to fund rideshare services while he attends "Redacted" in "Redacted", including reimbursement to his parents for such documented incurred costs of rideshare services starting February 1, 2025 is GRANTED. RCEB shall fund rideshare services for Claimant 2 while he attends "Redacted" in "Redacted" for up to 30 calendar days from this Final Decision. Claimant 1's appeal of RCEB's denial of his request to fund rideshare services while he attends "Redacted" in "Redacted" is DENIED. For Claimant 2, RCEB shall conduct a comprehensive assessment of whether Claimant 2's needs can be met in California and submit a written request for approval to the Department pursuant to Welfare and Institutions Code section 4519, subdivision (a), within 30 calendar days of this Final Decision. For Claimant 1, RCEB shall conduct a comprehensive assessment of whether Claimant 1's needs can be met in California and submit a written request for approval to the Department pursuant to Welfare and Institutions Code section 4519, subdivision (a), within 30 calendar days upon a renewed request from Claimant 1, for such services in returning to school in "Redacted" or another out of state school.

IT IS SO ORDERED on this day: December 30, 2025.

Original signed by:
Katie Hornberger, Deputy Director
Community Assistance and Resolutions Division (CARD)