

**BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA**

In the Matter of:

CLAIMANT

and

INLAND REGIONAL CENTER, Service Agency.

DDS No. CS0030049

OAH No. 2025090458

DECISION

Kimberly J. Belvedere, Administrative Law Judge, Office of Administrative Hearings, State of California, heard this matter on October 22, 2025, in San Bernardino, California.

Jemina Ahir, Fair Hearings Representative, Fair Hearings and Legal Affairs, represented Inland Regional Center (IRC).

Claimant's authorized representative and conservator represented claimant, who was not present.

Oral and documentary evidence was received. The record was closed and the matter submitted for decision on October 22, 2025.

ISSUE

Must regional center conduct an evaluation of claimant to assess if her current needs are being met because of recent behavioral changes in claimant that have been noticed by her conservator?

FACTUAL FINDINGS

Background and Jurisdiction

1. Claimant is a 71-year-old woman eligible for regional center services based on a diagnosis of intellectual developmental disorder.¹ Claimant resides at Villa Joy, a Level Three residential care facility for the elderly due to a need for substantial assistance with her activities of daily living. Villa Joy's program design includes providing residency for consumers who have non-compliant behaviors such as refusal to wash hands after eating or toileting, not changing underwear every day, minor

¹ The Lanterman Act was amended long ago to eliminate the term "mental retardation" and replace it with "intellectual disability," as reflected in the *Diagnostic and Statistical Manual of Mental Disorders, Fifth Edition* (DSM-5). The more current DSM-5, text revision (DSM-5-TR) no longer uses the term "intellectual disability" and instead refers to the condition as IDD. Many of the regional center forms have not been updated to reflect this change, and during testimony, all of the terms were used interchangeably. Accordingly, for purposes of this decision, as well as all admissible documentary evidence, "mental retardation," "intellectual disability," and "IDD" mean the same thing.

property destruction, and self-abusive behavior such as scratching, slapping, or head-banging. Claimant has resided there since March 9, 2023. If a consumer's behavior becomes so disruptive that they present a threat to the physical well-being of themselves or other consumers, or their behavior becomes extremely serious, the regional center is notified and the consumer may be exited from the residential placement. To date, IRC has not been notified by Villa Joy of any abnormal behavior by claimant.

2. Claimant has also attended a day program at OPARC Adult Development Center (OPARC) in Montclair for approximately eight years. According to the most recent Individualized Service Plan (ISP) from OPARC dated May 28, 2025, claimant has an "easy-going demeanor" and "good communication skills." Claimant can express her likes and dislikes without hesitation, and her family is very involved in her progress. Claimant is observed to be very bonded with her sister, who is also her conservator, and claimant's sister is a strong part of her support team and other aspects of claimant's care. No unusual or concerning behaviors were noted in the ISP. The ISP indicated claimant attends the day program five days per week and claimant's Individual Program Plan (IPP) indicates she attends five days per week, however, other documentary evidence indicated claimant attends three days per week. It is unknown which is correct.

3. On August 22, 2025, claimant's conservator sent an email to IRC requesting "a reevaluation for [claimant]." Although claimant's basic needs were being met and she is "well-supported" where she lives, the conservator reported claimant has "behavioral challenges" that have "increased significantly" and are difficult to manage. The conservator requested claimant's IPP be reviewed to ensure it "reflects [claimant's] current behavioral needs. . ." Following communication with IRC, the conservator

emailed IRC again on September 3, 2025, noting that claimant has been living in group homes since her 20s, and her needs have evolved and require review. The conservator again requested a "reevaluation."

4. On September 5, 2025, IRC issued a Notice of Action denying the request for a "reevaluation." The Notice of Action stated:

IRC has denied the request for a reevaluation. In an email dated September 3, 2025, you explained that you have observed an overall increase in [claimant's] behavioral issues. While behavioral issues are not new, at 71 and after living in group homes since her mid-20s, her needs are evolving and require review. [Claimant] resides at Villa Joy, a level 3, staff-operated residential facility where she has resided since March 2023. She has been attending OPARC Adult Development Center-Montclair for about eight years and OPARC staff know her very well. She's temporarily attending three days/week per your request however OPARC has stated that she is welcome to attend five days/week.

You have not specified the type of evaluation you are seeking. You have not elaborated about your "behavioral" concerns so that we may problem-solve as a team. It would be important to review medical records and seek a physician review via medical insurance to see if there's an underlying medical cause to address (medical, psychological, psychiatric, neurological). However, you have

declined to share medical records and declined to sign consent forms for IRC to obtain records citing HIPAA and [claimant's] right to privacy. Regional Centers are only authorized to complete diagnostic assessments for the purposes of determining eligibility at intake or to confirm continuing eligibility. Her eligibility for regional center services has been well established. She resides in a Level 3 facility that is meeting her needs appropriately. "Behavioral issues" are not occurring in the home or OPARC.

5. On September 8, 2025, the conservator filed an appeal challenging IRC's denial of her request. She wrote:

On August 21, 2025, I submitted a formal request for a reevaluation of [claimant's] current behavioral and support needs.

By email on September 3, 2025, IRC staff Debra Martinez, Program Manager, and Don Meza, Director, per Alyssa Estrada, CSC, asked whether the reevaluation was requested due to behaviors at her facility or to determine eligibility for a new disability.

I responded on the same date that the reevaluation is needed because [claimant's] behavioral issues have increased overall. While her behaviors are not new, at age 71 and after living in group homes since her mid-20s, her needs are evolving and require review. I requested that the

reevaluation proceed without further delay and asked for transparency on the process.

On September 5, 2025, I received an email from IRC staff Debra Martinez, Program Manager, and IRC subsequently issued a Notice of Action denying my request without conducting a reassessment of [claimant's] current needs, which is required under the Lanterman Act. . . .

Evidence Presented at Hearing

6. The following individuals testified at the hearing: Alyssa Ortega, claimant's IRC consumer services coordinator; Marianne Kirk, claimant's prior IRC consumer services coordinator; IRC Program Manager Genii Greco; IRC Program Manager Debra Martinez; and the conservator. The following factual findings are based on their testimony and documents received in evidence.

7. Ms. Ortega, claimant's current consumer services coordinator, is familiar with claimant and her background. She has visited claimant at least once and did not notice any behavioral concerns. The home where claimant currently resides is required to give IRC notice if there are behavioral concerns. To date, neither claimant's day program nor Villa Joy has given IRC any notice of behavioral concerns.

8. Ms. Kirk was claimant's prior consumer coordinator, and is familiar with claimant and claimant's background. Ms. Kirk was claimant's consumer services coordinator up to the time when the conservator made the request for a reevaluation. In August of 2025, Ms. Kirk was notified that she was being removed as claimant's consumer services coordinator. She is not sure of the reason why. Ms. Kirk had participated in developing claimant's most recent IPP. During the time she served as

claimant's consumer services coordinator, IRC did not receive any notification from either claimant's day program or Villa Joy of any behavioral concerns. IRC also has not received any request to remove claimant from Villa Joy as a result of extreme behaviors. IRC also has not received any incident reports or observation reports from Villa Joy regarding any unusual incidents that may have occurred with claimant. If they had, IRC would have followed up with the facility.

9. Following the filing of the appeal in this case, IRC attempted to get access to claimant's medical records in order to ascertain if any medical conditions may be causing claimant's alleged changes in behaviors, but the conservator has been unwilling to sign a medical release. IRC also offered a pharmacological review of claimant's medications to determine if any current medications are causing any behavioral changes, but that offer was also rejected by the conservator.

10. Representatives from IRC met with the conservator on or about September 25, 2025, to discuss the case. Given the reports by the conservator that claimant scratches herself and exhibits other concerning behaviors, IRC recommended an interdisciplinary team meeting between claimant, the conservator, IRC representatives, and staff from claimant's residential facility and day program. The purpose of the interdisciplinary team meeting would be to get all individuals and entities familiar with claimant together in one meeting to discuss any concerns regarding claimant's behavior and develop a plan regarding how they may all best support claimant. Rather than agree and attend the meeting, the conservator requested information on who would attend the meeting, how many people would attend the meeting, what their positions were and why they would be appropriate to attend the meeting, and if claimant is going to be present and what will occur if she becomes distressed. IRC communicated with the conservator subsequent to her

request for information, but the meeting never occurred, as the conservator desired to proceed with the hearing.

11. According to Ms. Greco, an interdisciplinary team meeting would be appropriate under the circumstances because, if claimant is exhibiting problematic behaviors, Villa Joy is a proper facility to address those behaviors. Like both consumer services coordinators, Ms. Greco indicated that IRC had not received any communications from either Villa Joy or OPARC that claimant's behaviors are a concern. However, in the past year, rate reforms have been put into place at residential care facilities for the elderly, like Villa Joy, and as a result, claimant is eligible to receive eight hours of "consulting services" semi-annually based on need. Those services may be provided by a behavioral consultant, a certified behavioral analyst, a psychologist, a licensed marriage and family therapist, or other types of professional or certified individuals. This rate reform information was detailed in a February 4, 2025, memorandum entitled, "Rate Reform Implementation for Residential Services," which was received in evidence. Residential facilities have until January 1, 2026, to fully implement the consulting services hours. Ms. Kirk indicated that, as a resident of a Level Three facility, claimant qualifies for those consultation hours and a behavioral consultant might be appropriate. An interdisciplinary team meeting and review of claimant's medical records would assist in making the determination if that would be an appropriate service.

12. Ms. Martinez's testimony also echoed that of Ms. Kirk. Ms. Martinez added that the request for a reevaluation was denied mostly because there was no elaboration from the conservator on what type of evaluation was needed, and the conservator has declined to sign consent forms to obtain claimant's medical and psychiatric records, which are needed to assess whether any further services and

supports would be appropriate to meet claimant's needs. Ms. Martinez concurs with Ms. Kirk that an interdisciplinary team meeting is necessary to determine how to best to meet claimant's needs.

13. The conservator testified that she visits her sister approximately three times per month and takes her to all her medical appointments. She has seen claimant's behaviors increase significantly in recent months and claimant's cognitive abilities decline. Some examples of new or unusual behaviors she has noticed in claimant are: self-harm (claimant hitting herself); poor emotional control; stealing from other residents; urinating on herself; and defecating in her bed. Cognitively, the conservator noted that she used to be able to have good conversations with claimant; however, recently, claimant seems like she is not understanding her and "something isn't right." Claimant is a very friendly person and her communication skills are pretty basic. She used to be able to talk about all kinds of things. Now, she is quiet, does not go into depth about anything, and sometimes is angry. When she becomes angry, she has tantrums or harms herself. These unusual changes in behavior seem to be occurring at Villa Joy; they are not occurring at OPARC. Claimant has told her she does not like living at Villa Joy, so the conservator is not sure if something is occurring there. She has not raised her concerns with the facility. The conservator does not feel the changes in claimant can be explained by her advancing age alone. The conservator is happy with her care at Villa Joy and believes if claimant were to be moved to a different residential facility it would cause her trauma.

Claimant is due to have a full yearly physical in November. Claimant has a history of trauma and mistreatment in group homes. She was raped in a group home when she was in her early 30s. Claimant cannot fully process trauma and it can be difficult for her to comprehend. Although claimant has had IPPs over the years, she has

not met her goals. For example, one of her most recent IPPs was to decrease maladaptive behaviors; to date, she has not met that goal. In fact, claimant has not met that goal since she was 26 years old.

There was very little communication from IRC until the actual denial of her request for a reevaluation, and that communication came from the legal department. A "legal person" suggested the interdisciplinary team meeting, but the conservator declined because she needed to focus on preparing for the hearing. Claimant is not the conservator's only responsibility, and she needed to give her full attention to the hearing. The conservator is willing to attend an interdisciplinary team meeting, but she just wanted to know more about it. A hearing likely could have been avoided if IRC had been more efficient in communicating with her.

The conservator also stated that she did not refuse to provide medical records; she was never asked until the legal department requested them. She does not think IRC needs unlimited access to all of claimant's medical records due to claimant's right to privacy. She is not opposed to discussing tailoring the medical releases in such a manner that would protect claimant's privacy.

In sum, the conservator is looking for whatever needs to happen to address claimant's needs because claimant's behavior has changed, as noted above, and those changes are not good for claimant's well-being.

LEGAL CONCLUSIONS

Burden and Standard of Proof

1. In a proceeding to determine whether an individual is eligible for services, the burden of proof is on the claimant to establish by a preponderance of the evidence that IRC should fund the requested service. (Evid. Code, §§ 115, 500; *McCoy v. Bd. of Retirement* (1986) 183 Cal.App.3d 1044, 1051-1052.)

The Lanterman Act

2. The Legislature enacted a comprehensive statutory scheme known as the Lanterman Developmental Disabilities Services Act (Welf. & Inst. Code, § 4500 et seq.) to provide a pattern of facilities and services sufficiently complete to meet the needs of each person with developmental disabilities, regardless of age or degree of handicap, and at each stage of life. The purpose of the statutory scheme 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. (*Assn. for Retarded Citizens v. Dept. of Developmental Services* (1985) 38 Cal.3d 384, 388.) Welfare and Institutions Code section 4501 outlines the state's responsibility for persons with developmental disabilities and the state's duty to establish services for those individuals.

3. Welfare and Institutions Code section 4512, subdivision (b) defines "services and supports" as:

[S]pecialized 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 independent, productive, normal lives. The determination of which services and supports are necessary for each consumer shall be made through the individual program plan process. The determination shall be made on the basis of the needs and preferences of the consumer or, when appropriate, the consumer's family, and shall include consideration of a range of service options proposed by individual program plan participants, the effectiveness of each option in meeting the goals stated in the individual program plan, and the cost-effectiveness of each option . . .

Nothing in this subdivision is intended to expand or authorize a new or different service or support for any consumer unless that service or support is contained in his or her individual program plan.

4. The Department of Developmental Services (DDS) is the public agency in California responsible for carrying out the laws related to the care, custody and treatment of individuals with developmental disabilities under the Lanterman Act. (Welf. & Inst. Code, § 4416.) In order to comply with its statutory mandate, DDS contracts with private non-profit community agencies, known as "regional centers," to provide the developmentally disabled with "access to the services and supports best suited to them throughout their lifetime." (Welf. & Inst. Code, § 4620.)

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

6. Welfare and Institutions Code section 4646, subdivision (a), requires all services and supports provided by the regional center to take into account the needs and preferences of the consumer and family, if appropriate; that the IPP be developed using a person-centered approach that reflects the needs and preferences of the consumer, and, as appropriate, their family; and that the services and supports provided assist each consumer in achieving their personal outcomes and life goals and promote inclusion in their community. It is also required that in the provision of these services regional centers do so in a manner that reflects a cost-effective use of public resources. (*Ibid.*)

7. Welfare and Institutions Code section 4648 requires regional centers to ensure that services and supports assist individuals with developmental disabilities in achieving the greatest self-sufficiency possible and those that meet the needs of the consumer, as determined by the IPP. This section also requires regional centers to be fiscally responsible.

8. In implementing IPPs, regional centers are required to first consider services and supports in natural community, home, work, and recreational settings. (Welf. & Inst. Code, § 4648, subd. (a)(2).) Services and supports shall be flexible and individually tailored to the consumer and, where appropriate, his or her family. (*Ibid.*)

9. A regional center may, pursuant to vendorization or a contract, purchase services or supports for a consumer in order to best accomplish all or any part of the IPP. (Welf. & Inst. Code, § 4648, subd. (a)(3).)

10. The regional center is required to consider all the following when selecting a provider of consumer services and supports: a provider's ability to deliver quality services or supports to accomplish all or part of the consumer's individual program plan; provider's success in achieving the objectives set forth in the individual program plan; the existence of licensing, accreditation, or professional certification; cost of providing services or supports of comparable quality by different providers; and the consumers, or, where appropriate, the parents, legal guardian, or conservator of a consumer's choice of providers. (Welf. & Inst. Code, § 4648, subd. (a)(6).)

11. The regional center is also required to consider generic resources and the family's responsibility for providing services and supports when considering the purchase of regional center supports and services for its consumers. (Welf. & Inst. Code, § 4646.4.)

12. Welfare and Institutions Code section 4659, subdivision (c), prohibits IRC from purchasing services available from generic resources.

13. Health and Safety Code section 1569.70, subdivision (a), describes the different levels of care applicable to residential care facilities for the elderly, as follows:

(1) Level I—Base care and supervision. Residents at this level are able to maintain a higher degree of independence and need only minimum care and supervision, as defined, and minimal personal care assistance.

(2) Level II—Nonmedical personal care. Residents at this level have functional limitations and psychosocial needs requiring not only care and supervision but frequent assistance with personal activities of daily living and active

intervention to help them maintain their potential for independent living.

(3) Level III—Health related assistance. Residents at this level require the services of lower levels and rely on the facility for extensive assistance with personal activities of daily living. This level may include residents who also require the occasional services of an appropriate skilled professional due to chronic health problems and returning residents recovering from illness, injury, or treatment that required placement in facilities providing higher levels of care.

Evaluation

14. Claimant had the burden of proving that IRC should conduct a reevaluation of claimant to determine if she needs additional services and/or supports due to recent changes in her behavior. Claimant met her burden.

15. The conservator did not specify in the appeal what type of reevaluation she was seeking. This is because, as she stated, she did not know the process or what specifically to request; she merely needed additional discussion with IRC to develop that request and come to a conclusion regarding what would be the best course of action. IRC construed the request as seeking the type of evaluation that would be conducted when an individual seeks eligibility for regional center services. Given that claimant is already eligible, as she has been for decades, that type of evaluation is not appropriate and was properly denied.

16. However, based on the evidence, that was not the type of reevaluation the conservator was requesting. The conservator presented as credible and sincere, dedicated to claimant's best interest, and genuinely looking for a solution to address what she has observed to be very concerning changes in claimant's behaviors. Although claimant's Level Three facility is equipped to deal with certain aspects of behavior, as IRC pointed out in their presentation of evidence, claimant may be in need of specific services and supports she is not currently receiving, and such services might be met by providing "consulting services" or some other type of services. In order to make that determination, an interdisciplinary team meeting is appropriate to address the concerns raised by the conservator, and identify whether a specific service and/or support (i.e. a behavioral consultant, therapist, recreational service, or some other service) might be appropriate to meet claimant's needs.

17. Accordingly, the parties shall schedule an interdisciplinary team meeting within the next 60 days that will include claimant, claimant's conservator, claimant's current consumer services coordinator, and representatives from Villa Joy as well as claimant's day program, in order to discuss the concerns of claimant's conservator (regarding claimant's behavioral changes) to determine if there is a different service or support that might be appropriate to address any changes in claimant's behavior. Given that claimant is entitled to approximately eight hours of consulting services semi-annually (as specified in the Rate Reform Implementation memorandum dated February 4, 2025), discussing what services could be made available pursuant to that authority would be an excellent place to start.

18. That said, it is quite possible that the behavioral changes noticed by claimant's conservator are not related to claimant's developmental disability and instead are attributable to a medical condition or medication. For that reason,

claimant's conservator shall make every effort to make all of claimant's pertinent medical records available to IRC by signing a medical release. While it is understandable that claimant's conservator may not want to give IRC an open-ended request to obtain all of claimant's medical records, any time a person is treated medically – even if it is for a condition or something a person does not think is related to the consumer's developmental disability – medications prescribed for that condition or even the condition itself may explain behavioral changes. Claimant's conservator cannot be forced to sign blanket medical releases; but, at a minimum, if she does not wish to do so, IRC and claimant's conservator should work together to tailor the language in the medical release requests in such a manner to satisfy the concerns of claimant's conservator, but give IRC the broadest access possible in order to make the evaluation process as productive as possible.

19. A collaborative discussion regarding the concerns of claimant's conservator with an interdisciplinary team of service providers and IRC representatives, in conjunction with a full picture of claimant's current medical conditions, will result in the comprehensive evaluation sought in the appeal.

ORDER

Claimant's appeal from Inland Regional Center's determination that it will not conduct a reevaluation of claimant is granted, in part.

(1) Within 60 business days of the issue date of this Decision and Order, IRC shall conduct an interdisciplinary team meeting with, at a minimum, the following persons and entities in attendance: claimant, claimant's conservator, claimant's consumer services coordinator, a representative from Villa Joy, and a representative

from claimant's day program. The meeting may include other individuals as IRC or claimant's conservator deem necessary. The parties shall discuss the concerns of claimant's conservator regarding claimant's behavioral changes, and consider if additional services and/or supports are necessary to address those behavioral changes or explore the underlying cause of those behavioral changes. At a minimum, the services and supports discussed shall include any service or support authorized to be provided under the Rate Reform Implementation memorandum dated February 4, 2025.

(2) IRC shall provide claimant's conservator with all necessary medical records release authorizations for her to sign so IRC can obtain necessary medical records. If claimant's conservator will not sign the requested authorizations, the parties shall meet and confer and work in good faith to develop limitation language for the release authorizations so IRC can obtain as much pertinent medical information as possible concerning any medical conditions for which claimant is currently receiving treatment.

DATE: November 3, 2025

KIMBERLY J. BELVEDERE

Administrative Law Judge

Office of Administrative Hearings

NOTICE

This is the final administrative decision. Each party is bound by this decision. Either party may request a reconsideration pursuant to subdivision (b) of Welfare and Institutions Code section 4713 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.