

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

In the Matter of:

Claimant,

and

San Gabriel/Pomona Regional Center,

Service Agency.

DDS No. CS0030521

OAH No. 2025091081

DECISION

Erlinda Shrenger, Administrative Law Judge (ALJ), Office of Administrative Hearings (OAH), State of California, heard this matter by video conference on March 4, 2026.

Claimant was represented by his mother (Mother). Claimant and his family members are identified by titles to protect their privacy.

Daniel Ibarra, Manager of Appeals and Resolution, represented San Gabriel/Pomona Regional Center (Service Agency).

Testimony and documentary evidence were received. The record was closed and the matter was submitted for decision on March 4, 2026.

ISSUE

Should Service Agency be required to fund Applied Behavior Analysis (ABA) services for claimant at his private school during school hours?

EVIDENCE RELIED ON

Documentary: Service Agency exhibits 1 through 9; claimant exhibits A and B.

Testimonial: Jaime R. Diaz, Client Services Manager; Jamie Currie, Director, Hope Counseling; and Mother.

FACTUAL FINDINGS

Jurisdictional Matters

1. Claimant is a 12-year-old male who is eligible for regional center services based on his diagnosis of mild intellectual disability.

2. By a Notice of Action dated September 11, 2025, Service Agency notified Mother that her request for funding of ABA services for claimant at private school during school hours was denied. (Exh. 1.)

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3. On September 15, 2025, Mother filed an Appeal Request for mediation regarding Service Agency's denial of her funding request for ABA services at school. (Exh. 3.) The issue was not resolved at mediation.

4. On November 11, 2025, Mother filed an Appeal Request Change Form to add a fair hearing to her Appeal Request. (Exh. 4.) This hearing ensued.

Claimant's ABA Services at Home

5. Claimant lives at home with his parents and younger sibling.

6. Claimant's most recent Individual Program Plan (IPP) was completed on October 8, 2025. (Exh. 6.) The IPP describes claimant as "an active and expressive young person who enjoys making choices about his daily life. He can choose what he wears, the foods he prefers, and the activities he wants to participate in." (*Id.* at p. A20.)

7. Pursuant to the IPP, Service Agency has authorized funding of claimant's ABA services with Hope Counseling Licensed Marriage and Family Therapy, Inc. (Hope Counseling). (Exh. 6, at p. A25.) Claimant receives the ABA services at home. Hope Counseling provides 44 hours per month of 1:1 ABA services by a Technician, four hours per month of support by a Behavior Management Assistant, and two hours per month of supervision by a Board Certified Behavior Analyst (BCBA). (Exh. 7.)

8. Claimant has been receiving ABA services from Hope Counseling since 2024. (Exh. B, p. Z4.) Service Agency has been funding claimant's ABA services because claimant's health insurance denied coverage due to claimant's diagnosis of mild intellectual disability. (Exh. 9.)

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Claimant's Behaviors at School

9. Claimant is in the sixth grade and enrolled in a general education classroom at a private school. (Exh. 6, p. A20.) In the IPP, Service Agency noted that claimant "is adjusting to middle school, where he now attends six different classes throughout the day." (*Id.* at p. A22.) The IPP states that claimant "continues to work on maintaining focus and sustaining attention during instruction" and "benefits from redirection, prompting, and priming by his teachers to help him stay engaged and prepared for classroom activities." (*Id.* at p. A22.) The IPP notes that, at times, claimant "may exhibit behaviors at school, and his family and school team continue to work together to support him in these areas." (*Ibid.*)

10. Claimant is eligible for special education services from his local school district. His Individual Education Program (IEP) dated November 9, 2022, indicates his primary eligibility for special education is Other Health Impairment and his secondary eligibility is Specific Learning Disability. (Exh. 8, p. A78.) Pursuant to the November 9, 2022 IEP, the school district agreed to provide claimant with Specialized Academic Instruction, Behavior Intervention Services, and Counseling and Guidance. (*Id.* at p. A91.)

11. On May 16, 2024, the school district developed a Behavior Intervention Plan (BIP) for claimant. (Exh. 8, pp. A88-A90.) The BIP indicates claimant engages in off-task behavior that impedes his learning, such as destroying school supplies with scissors, writing notes during lessons, fidgeting with teacher supplies, looking around the classroom, and moving in his seat. (*Id.* at p. A88.) The BIP also indicates claimant engages in disruptive behaviors that interfere with his learning and the learning of others, such as making faces at peers, making audible sounds with his mouth, making his seat squeak, and walking up to peers to talk about off-task topics. (*Ibid.*) The BIP

recommends teaching strategies and necessary curriculum and materials to address claimant's behaviors. (*Id.* at p. A89.)

12. At the request of claimant's parents, the school district completed a Special Circumstances Instructional Assistance (SCIA) assessment and a Functional Behavior Assessment (FBA) to address claimant's behaviors that the parents felt were impeding his learning. On June 5, 2024, the school district held a meeting with claimant's parents to review the results of the SCIA assessment and the FBA. The meeting is documented in an IEP Amendment dated June 5, 2024. (Exh. 8, pp. A67-A69.) During the June 5, 2024 meeting, claimant's parents stated they were "not in agreement with the SCIA evaluation and the recommendation that [claimant] does not require a 1:1 aide[.]" and they requested an Independent Expert Evaluation (IEE) for the SCIA evaluation. (Exh. 8, p. A68.)

13. At the June 5, 2024 meeting, the school district presented claimant's parents with an offer of Free Appropriate Public Education (FAPE) consisting of placement in a general education classroom with Resource Specialist Program (RSP) support, where claimant would receive Specialized Academic Instruction, 120 minutes; Behavior Intervention Services, 60 minutes monthly; and Counseling, 30 minutes weekly (push-in and pull-out). (Exh. 8, p. A68.) Claimant's parents declined this offer of FAPE.

Request for ABA Services at School

TESTIMONY OF JAIME DIAZ

14. Jaime Diaz is Service Agency's Client Services Manager. His duties include approving purchase of service requests, reviewing reports and assessments, and

assisting service coordinators assigned to his case load. Mr. Diaz is familiar with claimant's case because claimant's service coordinator is assigned to his case load.

15. On September 8, 2025, Mr. Diaz spoke by telephone with Mother. During the conversation, Mother asked about Service Agency funding ABA services for claimant at his school. Mr. Diaz explained to Mother that Service Agency does not typically fund services provided at school. He suggested to Mother that she could request ABA services from the school district through the IEP process, and Service Agency could assist her with the IEP process. At hearing, Mr. Diaz explained that Service Agency does not fund ABA services provided in a school setting or during school hours.

TESTIMONY OF JAMIE CURRIE

16. Jamie Currie, EdDc, BCBA, LMFT, PPSC, is the Director of Hope Counseling. As Director, her duties include supervising and training staff, and supervising other BCBA's. Ms. Currie has known claimant for two years. She is his BCBA supervisor and oversees his case.

17. Ms. Currie testified claimant's teachers have reported on claimant's performance during class. Claimant struggles with his organization skills, social skills, paying attention, and completing tasks. Claimant interrupts the class by making noises and getting out of his seat. Ms. Currie has coordinated claimant's care with his private school and the local school district. Ms. Currie has attended meetings with the school district and allowed the school district to see Hope Counseling's data for claimant's ABA services in the home environment.

18. On January 7, 2026, Hope Counseling completed an IEE/FBA for claimant. The findings of the IEE/FBA are summarized in a written report. (Exh. B.) The IEE/FBA

report explains that claimant's "[p]lacement in a private school setting occurred following significant safety concerns and reported abuse during prior attendance within a public-school environment, which rendered participation in that setting clinically inappropriate at this time. The request for ABA services resulted due to the public-school district's denial to assist with [claimant's] behavior needs in an educational setting." (*Id.* at p. Z3.) The IEE/FBA report further states: "Within the school environment, [claimant] demonstrates behavioral patterns that interfere with sustained engagement, peer interaction, and access to instruction, indicating the need for [ABA] interventions." (*Id.* at p. Z5.)

19. According to Ms. Currie, claimant's teachers at both his new school and former school reported that, during the school day, claimant needs assistance with organization, staying on task, completing tasks, and listening and attending, among other things. Ms. Currie noted the school district denied providing ABA services to claimant in his current placement, even though claimant's private school teachers reported he needs ABA services.

TESTIMONY OF MOTHER

20. Mother has requested funding from the school district for the extra help she feels claimant needs at school. She notes the school district has offered only one hour per month of consultation to address claimant's behaviors. Mother feels claimant's teachers cannot provide him with sufficient help because they have other students to manage. Mother testified claimant was bullied and harassed when he attended public school. She believes claimant can learn to be in a school setting if he can have an ABA therapist help him at school.

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21. Mother testified regarding the school district's offer of FAPE made at the meeting documented in the June 5, 2024 IEP Amendment. At the time, Mother had requested a one-to-one aide for claimant in the classroom. Mother disagreed with the school district's assessment, which concluded claimant did not need a one-to-one aide. Mother testified, at the time of her request, claimant was either failing his classes or getting C and D grades. He was walking out of class and not listening to his teachers. Claimant engaged in disruptive behaviors during non-preferred subjects, such as tearing up erasers and bothering other students. Mother testified claimant was sent home with many notes about his lack of focus and being sent to detention.

22. Mother testified claimant was attending private school at the time of the June 5, 2024 meeting. Mother removed claimant from public school because behavior services were not being provided, claimant was having attention issues, and claimant was being abused by other students. On many occasions, claimant came home from school with bumps and bruises from being hit at school. Claimant would tell Mother he did not want to go to school anymore. Mother spoke with the principals and felt they were unable to protect her child.

23. Mother testified she has not provided the school district with the IEE/FBA report completed by Hope Counseling on January 7, 2026. (Exh. B.) On cross-examination, Mother indicated she would not consider taking claimant back to public school even if the school district offered to provide a one-to-one aide in a public school setting. Mother testified that claimant's previous private school would not fund ABA services but allowed the services to be provided at school. Last year, Mother privately funded for a person to be present with claimant at his private school but the person was not trained to work with a child with special needs. She was merely present in the classroom with claimant.

24. According to Mother, claimant's health insurance denied coverage for ABA services. The basis for the denial was that the insurance would not pay for any service that was for mental health. Mother explained the insurance denial is the reason Service Agency is funding claimant's ABA services at home.

25. At hearing, Mother expressed appreciation for everything Service Agency has done for claimant. With her current funding request, she is simply asking to move some of the ABA services provided at home to claimant's classroom at school. Mother claimed she is "foggy" on the reason for Service Agency's denial of ABA services at school. Mother claims Service Agency is the payor of last resort because "I have exhausted everything else."

LEGAL CONCLUSIONS

Jurisdiction and Burden of Proof

1. The Lanterman Developmental Disabilities Services Act (Lanterman Act), set forth at Welfare and Institutions Code section 4500 et seq., governs this case. (All undesignated statutory references are to the Welfare and Institutions Code unless otherwise indicated.)

2. When one seeks government benefits or services, the burden of proof is on that party. (*Lindsay v. San Diego Retirement Bd.* (1964) 231 Cal.App.2d 156, 161.) The standard of proof in this case is the preponderance of the evidence, because no law or statute (including the Lanterman Act) requires otherwise. (Evid. Code, § 115.) Preponderance of the evidence means evidence that has more convincing force than that opposed to it. (*Glage v. Hawes Firearms Co.* (1990) 226 Cal.App.3d 314, 324.)

3. In this case, Mother seeks funding for ABA services provided to claimant at his private school that Service Agency has not previously agreed to provide. Therefore, Mother has the burden of proving by a preponderance of the evidence claimant is entitled to the requested funding. (See Evid. Code, § 500.) Mother did not meet this burden.

Lanterman Act

4. A regional center is required to secure the services and supports that meet the needs of the consumer, as determined in the consumer's IPP. (§ 4646, subd. (a)(1).) The determination of which services and supports are necessary for each consumer shall be made through the IPP process. (§ 4512, subd. (b).) 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 IPP participants, the effectiveness of each option in meeting the goals stated in the IPP, and the cost-effectiveness of each option. (*Ibid.*)

5. Pursuant to section 4646.4, subdivision (a), when purchasing services and supports for a consumer, a regional center shall ensure the following: (1) conformance with the regional center's purchase of service policies, as approved by the Department of Developmental Services pursuant to section 4434, subdivision (d); (2) use of generic services and supports when appropriate; (3) use of other services and sources of funding as contained in section 4659; and (4) consideration of a family's responsibility for providing similar services and supports for a minor child without disabilities.

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6. Regional center funds "shall not be used to supplant the budget of any agency that has a legal responsibility to serve all members of the general public and is receiving public funds for providing those services." (§ 4648, subd. (a)(8).)

7. Under section 4659, regional centers are required to identify and pursue all possible sources of funding for consumers receiving regional center services. Such sources of funding include governmental entities or programs required to provide or pay for the cost of providing services, including Medi-Cal and school districts, and private entities to the extent they are liable for the cost of services, aid, insurance, or medical assistance to the consumer. (§ 4659, subds. (a)(1), (2).)

Discussion

8. In this case, Service Agency is not required to fund ABA services for claimant at his private school during school hours. Claimant's local school district is an available generic resource that is required to provide or pay for the cost of providing services at school for its students. Claimant's school district has offered services which address claimant's learning and behavioral concerns. Claimant's parents declined the school district's offer and, instead, have chosen to enroll claimant in private school. By choosing to enroll claimant in private school, claimant's parents assume responsibility for any services claimant may require in that setting. Service Agency's funding of services for claimant at school would supplant the budget of the school district, which is the agency with legal responsibility to serve all students and receives public funds for doing so. Thus, under the Lanterman Act, Service Agency is prohibited from funding ABA services at school for claimant. Claimant's appeal shall be denied.

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ORDER

Claimant's appeal is denied. Service Agency is not required to fund ABA services for claimant at his private school during school hours.

DATE:

ERLINDA SHRENGER

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.