

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

In the Matter of:

CLAIMANT

And

EASTERN LOS ANGELES REGIONAL CENTER,

Service Agency

DDS No. CS0030067

OAH No. 2025100258

PROPOSED DECISION

Glynda B. Gomez, Administrative Law Judge (ALJ), Office of Administrative Hearings (OAH), State of California, heard this matter by videoconference on January 27, 2026.

Claimant represented himself. Claimant's father and one of his service providers were also present.

Victor Mercado, Appeals Specialist, represented Eastern Los Angeles Regional Center (ELARC or Service Agency).

A protective order was entered for Exhibit 4 because of the personal information that was unredacted.

Oral and documentary evidence was received. The record was closed, and the matter was submitted for decision on January 27, 2026.

ISSUE

May Claimant use his existing Self-Determination Plan (SDP) funds to pay for Cardiopulmonary Resuscitation (CPR), First Aid, and Automated External Defibrillator (AED) training for his staff?

SUMMARY

The Service Agency denied Claimant's request to use his SDP funds to pay for CPR, First Aid and AED training for his staff, contending it should be covered by the Financial Management Service (FMS). Claimant contends that the training was not covered by FMS and he should be permitted to use his existing SDP funds to purchase the training because it is needed for his health and safety needs at home, at school and in the community. The preponderance of the evidence establishes that Claimant may pay for the training using his SDP funds under the service code 333 entitled "Participant Directed Goods and Services."

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FACTUAL FINDINGS

Jurisdictional and Background Matters

1. The Department of Developmental Services (DDS) administers the Lanterman Developmental Disabilities Act (the Lanterman Act or the Act) to ensure that necessary services and supports are provided to persons with developmental disabilities to help them lead more independent, productive, and normal lives. (Welf. & Inst. Code, § 4500.) Claimant participates in the Self-Determination Program (SDP). The SDP is a voluntary program under the Lanterman Act designed “to provide participants and their families, within an individual budget, increased flexibility and choice, and greater control over decisions, resources, and needed and desired services and supports” than the Act’s traditional model for delivery of services and supports. (Welf. & Inst. Code, § 4685.8, subd. (a).) The SDP allows participants and their families to have an annual budget for services and supports to meet the objectives of the participant’s Individual Program Plan (IPP). (Welf. & Inst. Code, § 4685.8.)

2. Claimant, 23 years old, is eligible for regional center services based upon his diagnosis of Autism. Claimant is also diagnosed with Obsessive Compulsive Disorder (OCD), and Attention Deficit Hyperactivity Disorder (ADHD). Claimant is of high average intelligence. Claimant has Rheumatoid Arthritis which causes him pain. He sometimes uses a cane or wheelchair. He also struggles with anxiety and post-traumatic stress disorder (PTSD). Claimant lives with his father. He is currently attending classes to obtain his Master of Science degree in Counseling from California State University, Los Angeles. Claimant is working on his practicum at the Department of Rehabilitation. He hopes to become a vocational/rehabilitation counselor.

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3. Respondent testified that he had "Long Covid" in 2022 and still suffers from its effects. Additionally, he has severe asthma that was aggravated by the Eaton and Palisades fires in January 2025. Claimant testified that he is on immunosuppressant drugs that make him more susceptible to infection. Some of Claimant's medicines have the side effect of producing an irregular heart rate and he is overweight. Claimant is often on campus, at his practicum site or in community spaces where he cannot control his environment. He is very concerned about his health and potential emergencies. His worry about health and potential emergencies is an obstacle to his participation in activities because he becomes overwhelmed, shuts down and flees when his worries become too much for him to manage. Claimant and his Co-ordinated Family Services provider have investigated all generic resources and have not found a free and available provider of the trainings he seeks for his staff. Generally, the classes available in the community are approximately \$100 to \$200 per person and have no availability in the near future.

4. On August 29, 2025, ELARC served Claimant with a Notice of Action (NOA) notifying Claimant that it was "denying the use of Self Determination funds for funding of CPR First Aid training for his staff. This type of training should be covered by the FMS through the employee burden fee." According to the NOA, the reason for the proposed action was "It is the individual[']s choice to utilize the sole employer SDP service model. Funding for training of staff persons hired under SDP is not required to participate in the SDP program. In addition[,] generic resources need to be looked into to obtain the requested training. Lastly, these requests to [*sic*] not fit any of the SDP service categories." (Ex. 1.)

5. On September 7, 2025, Claimant filed an Appeal Request Form contesting the denial.

6. All jurisdictional requirements have been met.

7. Claimant has seven staff members providing the services outlined in his 2024 IPP (and his unsigned 2025 IPP), two full-time and five part-time. His father is one of his full-time staff members. The part-time schedules vary and are largely dependent on Claimant's school, practicum and social schedule. Claimant has had difficulty finding staff members who meet his unique needs and are available on the schedules he needs and at the locations he needs. Claimant wants his existing staff to receive CPR, AED and first aid training because he fears for his health in an emergency due to his various medical conditions. Claimant's Autism and OCD make it difficult for him to think of anything other than his health risks at times and result in him feeling overwhelmed, shutting down and fleeing, preventing him from engaging his community, and achieving the educational, social and vocational goals of his IPPs. Claimant asserts that he can require new staff to have completed such training as a condition of employment, but does not feel that he can require current staff to obtain the training as a condition of continued employment.

8. Claimant's approved 2024 SDP spending plan provides for CPR, First Aid and AED training. ELARC determined that the approval was made in error and instructed him to remove the item from the spending plan. The evidence was not clear as to whether ELARC made a one-time exception for the expense and if so, what was the basis for the exception.

9. Claimant participates in the SDP using the Sole Employer model. SDP participants may choose from three types of FMS models: Bill Payer, Co-Employer and Sole Employer. Claimant has chosen the Sole Employer FMS model. Pursuant to the Sole Employer model, Claimant, with the help of FMS, decides the skills needed, wages and benefits and who to hire. Claimant interviews the applicants. The FMS and

Claimant jointly verify worker eligibility for employment qualifications and jointly decide whom to hire. (Ex. 14.)

10. Claimant and the FMS determine what skills are needed for Claimant's staff. They may require employees to have CPR, First Aid and AED training/certification as prerequisites to employment or other training and may require that the certifications be kept current. (Ex. 14) CPR, First Aid and AED training are not provided by Claimant's FMS under any of the FMS models. (Testimony of Claimant.)

11. Claimant's September 19, 2024 IPP (the last signed IPP) contains eight desired outcomes or goals. Pertinent here are Outcomes 4, 5, 6, 7 and 8 which provide that Claimant will "receive appropriate education that will meet his educational goals" [4], "[be] as independent as possible" [5], "participate in social activities within the community, amongst his peers" [6], "will feel safe at home and in the community" [7], and "will travel within the community" [8]. (Ex. 3).

12. Claimant's 2025 IPP, which has not yet been finalized and signed due to some disagreement, also provides similar desired outcomes/goals including that Claimant "feel safe at home, school and community," "to meet people and make new friends," and "to be healthy to engage in activities of daily living at home, school, and community."

LEGAL CONCLUSIONS

1. Claimant, as the party advocating a change in government benefits or in the status quo, has the burden of proof. (*Lindsay v. San Diego Retirement Bd.* (1964) 231 Cal.App.2d 156, 161.) The standard of proof is a preponderance of the evidence. (Evid. Code, §§ 115 and 500.) The 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.)

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

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

4. Code section 4695.8 governs regional center consumers participating in the SDP. The purpose of the SDP is to provide consumers (also referred to as participants) and their families, within an individual annual budget, increased flexibility and choice, and greater control over decisions, resources, and needed and desired services and supports to implement their IPPs. (*Id.*, subd. (a).)

5. The Lanterman Act contemplates that the provision of services shall be a mutual effort by and between regional centers and the consumer and the consumer's family. The foundation of this mutual effort is the development of a consumer's IPP. As explained in Code section 4646, subdivision (d):

Individual program plans shall be prepared jointly by the planning team. Decisions concerning the consumer's goals, objectives, and services and supports that will be included in the consumer's individual program plan and purchased by the regional center or obtained from generic agencies shall be made by agreement between the regional center representative and the consumer, or if appropriate, the parents, legal guardian, conservator, or authorized representative at the meeting.

6. The SDP is an alternative model of service delivery provided under Code section 4685.8. A regional center consumer who has been deemed eligible for, and has voluntarily agreed to participate in, the SDP is referred to as a "participant." (Code, § 4685.8, subd. (c)(5).) "A participant may choose to participate in, and may choose to leave, the Self-Determination Program at any time." (Code, § 4685.8, subd. (d).)

7. "Self-determination" means "a voluntary delivery system consisting of a defined and 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." (Code, § 4685.8, subd. (c)(6).) The SDP "shall only fund services and supports ...that the federal Centers for Medicare and Medicaid Services determines are eligible for federal financial participation." (Code, § 4685.8, subd. (c)(6).)

8. A participant must comply with the requirements of Code section 4685.8, subdivision (d)(3). Among other things, the participant shall use the services and supports available within the SDP only when generic services and supports are not available; the participant shall only purchase services and supports necessary to implement their IPP and shall comply with all terms and conditions for participation in the SDP; and the participant shall manage SDP services and supports within the participant's individual budget. (Code, § 4685.8, subd. (d)(3)(B), (C), (D).)

9. When developing the individual budget used for the SDP, the IPP team determines the services, supports, and goods necessary for each participant, based on the needs and preferences of the participant, and when appropriate the participant's family, the effectiveness of each option in meeting the goals specified in the IPP, and the cost effectiveness of each option, as specified in Code section 4648, subdivision (a)(6)(D). (Code, § 4685.8, subd. (b)(2)(H)(i).) A participant must comply with the requirements of section 4685.8, subdivision (d)(3). The completed individual budget shall be attached to the IPP." (Code, § 4685.8, subd. (0).) "The participant shall implement their IPP, including choosing and purchasing the services and supports allowable under this section necessary to implement the plan." (Code, § 4685.8, subd. (k).)

10. The IPP team shall determine the initial and any revised individual budget for the participant using the methodology specified in Code section 4685.8, subdivision (m). "'Individual budget' means the amount of regional center purchase of service funding available to the participant for the purchase of services and supports necessary to implement the IPP." (Code, § 4685.8, subd. (c)(3).) For a participant who is a current consumer of the regional center, their individual budget shall be the total

amount of the most recently available 12 months of purchase of service expenditures for the participant. (Code, § 4685.8, subd. (m)(1)(A)(i).)

11. Pursuant to Code section 4685.8, subdivision (m)(1)(A)(ii), an adjustment may be made to the individual budget if both of the following requirements, designated herein as Requirement I and Requirement II, occur:

(I) The IPP team determines that an adjustment to this amount is necessary due to a change in the participant's circumstances, needs, or resources that would result in an increase or decrease in purchase of service expenditures, or the IPP team identifies prior needs or resources that were unaddressed in the IPP, which would have resulted in an increase or decrease in purchase of service expenditures. When adjusting the budget, the IPP team shall document the specific reason for the adjustment in the IPP.

(II) The regional center certifies on the individual budget document that regional center expenditures for the individual budget, including any adjustment, would have occurred regardless of the individual's participation in the Self-Determination Program.

12. Code section 4685.8, subdivision (n), provides that SDP participants may transfer funds between service codes and budget categories upon approval of the regional center or the participant's IPP team. The regional center shall provide timely authorizations to the participant's FMS.

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13. Code section 4685.8, subdivision (d)(3)(B), provides that SDP participants “shall utilize the services and supports available within the Self-Determination Program only when generic services and support are not available.”

14. Code section 4659.10 provides that the Service Agency remains the “payer of last resort” meaning that funds in an Individual Budget for services and supports may not be disbursed by a participant if there is available funding from a source other than the Service Agency.

15. It is the intent of the Legislature that “the provision of services to consumers and their families be effective in meeting the goals stated in the individual program plan, reflect the preferences and choices of the consumer, and reflect the cost-effective use of public resources. (Code, § 4646, subd. (a).)

16. Code section 4646.5, subdivision (a)(8), provides the planning process for the IPP described in Code section 4646 shall include: “A schedule of regular periodic review and reevaluation to ascertain that planned services have been provided, that objectives have been fulfilled with the times specified, and that consumers and families are satisfied with the individual program plan and its implementation.”

17. Pursuant to Code section 4685.8, subdivision (p)(2), the DDS may issue program directives or similar instructions until regulations are adopted. Accordingly, DDS’s April 25, 2024 Directive entitled “Self-Determination Program: Employer Burden and Other Related Costs” provides guidance to regional centers. The April 25, 2024 Directive provides:

Employer burden and other employment-related costs are applicable to employing an SDP participant’s staff under the co-employer or the sole employer models. Employer

burden costs are required to be incorporated in the SDP participant's spending plan. Other employment-related costs may be required by law or company policy or they may be optional costs agreed to by the SDP participant and their employee. The SDP participant's spending plan shall only cover the costs of the services and supports listed in their spending plan, including the employer burden and employment-related costs identified in this directive. No other costs shall be included in an SDP participant's spending plan.

Employer Burden

Employer burden costs shall be identified in and paid from the SDP participant's spending plan and are limited to:

- Federal Insurance Contributions Act (FICA Taxes)
- Federal Unemployment Tax Act (FUTA Taxes)
- State Unemployment Tax Act (SUTA Taxes)
- Employment Training Tax (ETT)
- Worker's compensation insurance
- Paid sick leave

(Exs. C and 12.)

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18. DDS's July 8, 2024 Directive, entitled "Self-Determination Program: Updated Goods and Services" provides that SDP is part of a federal government Medicaid waiver. SDP funds can only be used for goods and services that have been approved by the Federal Center for Medicare and Medicaid Services, and are not available through other funding sources (e.g. Medi-Cal, In-Home Supportive Services, schools, etc.). (Ex. 8.) Enclosures A and B to the directive list the services and goods that qualify and are prohibited. The training that Claimant requests is not on either enclosure. Enclosure C of the Directive provides a flow chart to determine when a participant may be allowed to fund goods or services through "Participant-Directed Goods and Services (Service Code 333).[missing end quotation mark]

19. "Participant Directed Goods and Services" under Service Code 333 is described as:

Participant-Directed Goods and Services Participant-Directed Goods and Services consist of services, equipment or supplies not otherwise provided through the SDP Waiver or through the Medicaid State plan that address an identified need in the IPP (including accommodating improving and maintaining the participant's opportunities for full membership in the community) and meet the following requirements: the item or service would decrease the need for other Medicaid services; promotes interdependence, and inclusion in the community ; and increase the person's safety in the home environment; and the participant does not have the personal funds to purchase the item or services and the item or service is not

available through another funding source. The participant-directed goods and services must be documented in the participant's Individual Budget.

(Ex. 7.)

20. Enclosure C to the July 8, 2024 Directive contains a flow chart for analysis of the use of Service Code 333. It directs that the analysis start with the question: "Is the need or goal identified in the IPP?" In this case, the training meets the needs that Claimant has identified in his 2024 IPP (current operative IPP) to "receive appropriate education that will meet his educational goals" [4], "as independent as possible" [5], "participate in social activities within the community, amongst his peers" [6], "will feel safe at home and in the community" [7], and "will travel within the community" [8]. (Ex. 3). It also meets the needs or goals identified in the yet to be signed 2025 IPP to: "feel safe at home, school and community," "to meet people and make new friends" and "to be healthy to engage in activities of daily living at home, school, and community." (Ex. 5.) The next question posed is "Will the good or service directly link to an identified IPP need or goal?" In this case, the answer is yes. Accordingly, the next step is to determine: "Is the good or service included in another service definition?" The answer to that question is no. The next step, is to determine "[i]s there a generic community resource available to provide the good or service?" In this case, there are generic providers in existence, but there are no providers available to provide the training in the near future and/or without cost. Accordingly, the answer to this question is no.

21. The final three questions of the analysis are: "Does the good or service promote independence and inclusion in community?"; "Does the good or service decrease the need for other Medicaid services?" or "Does the good or service increase the person's safety in the home environment." An affirmative answer to any of these

three questions makes the good or service qualified to be included in the IPP and Spending Plan as Participant-Directed Goods and Services under Code 333. In Claimant's case, the requested good or service will remove barriers to his participation in the community and promote his independence and inclusion. It will also increase his safety in the home environment. Therefore, under the suggested analysis, the one-time expense of CPR, First Aid and AED training cost for current employees, but not future employees, may be paid from SDP funds and included on Claimant's spending plan as "Participant Directed Goods or Services" using Service Code 333. Claimant, in conjunction with his FMS, may require future employees to have certification of CPR, First Aid and AED as a condition of employment.

ORDER

1. Claimant's appeal is granted.
2. Claimant may use SDP funds, under Service Code 333 "Participant Directed Goods or Services" to obtain training in CPR, First Aid and AED for his current employees (hired as of the effective date of this decision.)

DATE:

GLYNDA B. GOMEZ
Administrative Law Judge
Office of Administrative Hearings

BEFORE THE
DEPARTMENT OF DEVELOPMENTAL SERVICES
STATE OF CALIFORNIA

In the Matter of:

Claimant

OAH Case No. 2025100258

Vs.

DECISION BY THE DIRECTOR

Eastern Los Angeles Regional Center

Respondent.

ORDER OF DECISION

On February 6, 2026, an Administrative Law Judge (ALJ) at the Office of Administrative Hearings (OAH) issued a Proposed Decision in this matter.

The Department of Developmental Services (Department) takes the following action on the attached Proposed Decision of the ALJ:

The Proposed Decision is adopted by the Department as its Decision in this matter. The Order of Decision, together with the Proposed Decision, constitute the Decision in this matter.

This is the final administrative Decision. Each party is bound by this Decision. Either party may request a reconsideration pursuant to Welfare and Institutions Code section 4713, subdivision (b), within 15 days of receiving the Decision or appeal the Decision to a court of competent jurisdiction within 180 days of receiving the final Decision.

Attached is a fact sheet with information about what to do and expect after you receive this decision, and where to get help.

IT IS SO ORDERED on this day February 23, 2026.

Original signed by

Katie Hornberger, Deputy Director
Community Assistance and Resolutions Division