

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

In the Matter of:

Claimant

and

Kern Regional Center, Service Agency

DDS No. CS0030899

OAH No. 2025100640

DECISION

Ji-Lan Zang, Administrative Law Judge, Office of Administrative Hearings (OAH), State of California, heard this matter by videoconference on March 5, 2026.

Vanessa Webster, Fair Hearing Officer, represented Kern County Regional Center (KRC).

Sergio Hernandez, Independent Facilitator, represented Claimant. Claimant and her family members are identified by their titles to protect their privacy.

Oral and documentary evidence was received. The record was closed, and the matter was submitted for decision on March 5, 2026.

ISSUE

Should KRC fund Claimant's request for 200 Personal Assistance (PA) hours per month?

EVIDENCE

Documentary: KRC Exhibits 1 to 16; Claimant's Exhibits B-O

Testimonial: Sarah Fechner, Assistant Director (AD) of Client Services, KRC.

FACTUAL FINDINGS

Parties and Jurisdiction

1. Claimant is a conserved, twenty-three-year-old female. She qualifies for regional center services based on diagnoses of severe intellectual disability and autism. Claimant lives at home with her grandmother, mother (Mother), and brother, who is also a KRC client.

2. On September 15, 2025, KRC sent Claimant a Notice of Action letter denying a request for 292 hours of PA per month. Claimant clarified at the hearing that she never requested 292 hours of PA, but her request is for 200 hours of PA. Claimant timely filed a request for a fair hearing appealing the denial. All jurisdictional requirements have been met.

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Claimant's Current Status

3. According to a Client Development Evaluation Report (CDER) dated May 8, 2025, Claimant is nonverbal and communicates using one-word or two-word sentences. (Ex. 4, p. A25.) Claimant does not toilet by herself and has no bladder control. (*Ibid.*) Claimant needs assistance with personal care activities, including dressing. (*Ibid.*) Claimant engages in self-injurious behavior and emotional outbursts that require intervention at least once a week, and she engages in elopement at least once a month. (*Id.*, p. A26.)

4. Regarding her behavioral issues, Claimant's Individual Program Plan (IPP) Amendment dated June 2, 2025, states:

[S]he requires constant supervision to prevent injury or harm in all settings. She has no safety skills. [Claimant] does attempt to elope from the family home. [Claimant's Mother] has codes on the doorknobs for her safety. She does not understand the concept of stranger danger but is not overly friendly with others. [Claimant] does have self-injurious behaviors and will bite herself and slap her face. She has emotional outbursts 3 times per week. [Claimant will] have self-injurious behaviors, scream and cry when having an outburst. Her outbursts can be triggered by anything and can be random. She has disruptive social behaviors and will flap her hands, pace, and continuously clap her hands. . . .

(Ex. 8, p. A66.)

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5. IPP goals for Claimant, as indicated in the June 2, 2025 IPP Amendment, include participating in the community and being in a safe environment with her family. (Ex. 8, pp. A65-A66.) According to the same IPP Amendment, KRC is currently funding (1) 80 hours per month of in-home respite services through Maxim Healthcare Services, (2) nine sessions per month of sports club participation through A3 Sports and Wellness (A3 Sports), (3) one session per month of social recreational services through A3 Sports; and (4) 10 hours of Independent Living Services assessment through Shine Bright Social Services. (*Ibid.*)

6. An IPP Amendment dated May 8, 2025, indicates that a generic resource, In-Home Supportive Services (IHSS), funds Mother as the IHSS worker at the rate of 283 hours per month. (Ex. 7, p. A57.)

7. According to an IPP Amendment dated August 25, 2025, Claimant received Self-Determination Plan (SDP) planning services through Kern Integration Support Services. (Ex. 9, p. A72.) However, Claimant has not yet transitioned to the SDP, and she is currently receiving service under the traditional service delivery model.

Claimant's Request

8. According to a weekly schedule proposed by Claimant, Claimant requests PA hours for the following periods:

- Sundays from 8:00 a.m. to 12:00 p.m., 1:00 p.m. to 2:00 p.m., 9:00 p.m. to 11:00 p.m., and 12:00 a.m. to 1:00 a.m.;
- Mondays from 8:00 a.m. to 10:00 a.m., 1:00 p.m. to 2:00 p.m., 7:00 p.m. to 11:00 p.m., and 12:00 a.m. to 1:00 a.m.;

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- Tuesdays from 8:00 a.m. to 10:00 a.m., 1:00 p.m. to 2:00 p.m., 7:00 p.m. to 11:00 p.m., and 12:00 a.m. to 1:00 a.m.;
- Wednesdays from 8:00 a.m. to 10:00 a.m., 1:00 p.m. to 2:00 p.m., 7:00 p.m. to 11:00 p.m., and 12:00 a.m. to 1:00 a.m.;
- Thursdays from 8:00 a.m. to 10:00 a.m., 1:00 p.m. to 2:00 p.m., 7:00 p.m. to 11:00 p.m., and 12:00 a.m. to 1:00 a.m.;
- Fridays from 8:00 a.m. to 10:00 a.m., 1:00 p.m. to 2:00 p.m., 7:00 p.m. to 11:00 p.m., and 12:00 a.m. to 1:00 a.m.;
- Saturdays from 8:00 a.m. to 10:00 a.m., 10:00 p.m. to 11:00 p.m., and 12:00 a.m. to 1:00 a.m.

(Ex. G.)

9. Although Claimant indicates on this proposed schedule that a 2:1 ratio of PA hours for the period between 8:00 a.m. and 10:00 a.m. is required every day of the week, Claimant clarified at the hearing that she is not requesting KRC to fund two personal assistants during these hours. She is requesting KRC to fund one personal assistant during these hours. Mother intends to accompany the KRC-funded personal assistant to serve as the additional aide for Claimant between 8:00 a.m. and 10:00 a.m. everyday.

10. Claimant submitted a declaration from her current Direct Support Professional from Maxim Healthcare dated March 4, 2026. (Ex. E.) Claimant's Direct Support Professional states in this declaration that Claimant exhibits behaviors including anxiety and agitation when she is in the community, leading to "crying, yelling, dropping to the ground, refusing to move, or trying to run away." (*Ibid.*)

Claimant also exhibits “resistant and defiant behaviors, including pulling away, pushing items away, refusing tasks, and sudden outbursts.” (*Ibid.*) The Direct Support Professional also stated: “Based on my direct work with her, [Claimant] needs constant supervision and hands-on support to stay safe and to participate in daily life.” (*Ibid.*)

11. Claimant submitted a letter from her primary physician, Jae Joon Kim, M.D., in which Dr. Kim indicated that Claimant “requires assistance and care 24/7 due to medical condition.” (Ex. D.)

12. Claimant also submitted an IHSS award letter which indicates that Claimant requires 168 hours of protective supervision per week, or approximately 727 hours of protective supervision per month. (Ex. B.) Mother is receiving the maximum number of hours allowable under the law, which is 283 hours per month. (*Ibid.*)

13. Additionally, Claimant submitted a declaration from Mother, dated March 4, 2026. (Ex. F.) Mother stated in this declaration that Claimant’s behaviors include elopement, biting and slapping herself, unpredictable seizures, and emotional outbursts approximately three times a week. (*Ibid.*) Claimant requires nighttime supervision because she wakes up multiple times during the night. When she wakes, Claimant paces, attempts to wander off, engages in self-injurious behavior, and may need food or other sensory support to calm down. (*Ibid.*) Either Mother or Claimant’s grandmother must wake up during the night to keep her safe. (*Ibid.*) Additionally, Claimant’s family resources are limited because Claimant’s brother is also an adult KRC client with significant needs. (*Ibid.*)

Testimony of AD Fechner

14. At the hearing, AD Fechner testified on KRC’s behalf. AD Fechner stated that a multidisciplinary team at KRC assesses the number of PA hours a consumer

requires. According to AD Fechner, Claimant qualifies for PA hours, but not at the level of 200 hours per month. KRC is willing to offer Claimant 80 hours per month of PA hours. AD Fechner further asserted that all 200 hours of PA services requested by Claimant are duplicative of IHSS, an available generic resource.

15. On cross-examination, AD Fechner admitted that she did not know whether in determining Claimant's PA hour needs, KRC conducted an individualized assessment, a home visit, a functional assessment, or a risk assessment. AD Fechner then asserted that KRC does not perform any assessments in determining PA hour needs. AD Fechner also admitted that she was unaware that Claimant's brother is also a KRC client and that Claimant receives 283 hours of IHSS, the maximum allowable under the law.

16. AD Fechner then experienced technical difficulties and concluded her testimony. However, Ms. Webster, KRC's Hearing Officer, conceded that KRC's offer to Claimant of 80 hours per month of PA was not based on any assessment of Claimant's needs. KRC offered Claimant the 80 PA hours to settle this matter. Ms. Webster was also unable to point to any duplication of PA and IHSS hours based on Claimant's proposed weekly schedule.

LEGAL CONCLUSIONS

Standard and Burden of Proof

1. The burden of proof is on the party seeking government benefits or services. (See, e.g., *Lindsay v. San Diego County Retirement Bd.* (1964) 231 Cal.App.2d 156, 161.) In this case, Claimant bears the burden of proving by a preponderance of

the evidence that KRC is required to fund 200 hours per month of PA services. (Evid. Code, § 115.) She has met that burden.

Statutory Framework

2. The Lanterman Act (Welf. & Inst. Code, § 4500 et. seq.) sets forth a regional center's obligations and responsibilities to provide services to individuals with developmental disabilities. (All further statutory references are to the Welfare and Institutions Code unless otherwise designated.) 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." Under the Lanterman Act, regional centers are "charged with providing developmentally disabled persons with 'access to the facilities and services best suited to them throughout their lifetime'" and with determining "the manner in which those services are to be rendered." (*Id.* at p. 389, quoting from § 4620.)

3. To comply with the Lanterman Act, a regional center must provide services and supports that "enable persons with developmental disabilities to approximate the pattern of everyday living available to people without disabilities of the same age." (§ 4501.) The types of services and supports that a regional center must provide are "specialized 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.” (§ 4512, subd. (b).)

4. The determination of which services and supports the regional center shall provide is 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.” (§ 4512, subd. (b).) However, regional centers have wide discretion in determining how to implement an IPP. (*Association for Retarded Citizens, supra*, 38 Cal.3d at p. 390.)

5. The Lanterman Act defines “services and supports” to include respite, recreation, social skills, protective services, and community integration services. (§ 4512, subd. (b).)

Analysis and Disposition

6. The evidence demonstrates that Claimant requires 24/7 supervision. Claimant’s primary care physician, her current Direct Support Professional, and Mother all confirm that Claimant’s medical condition and behavioral issues require 24/7 care for her health and safety. Moreover, the IHSS award letter, as well as KRC’s own assessments, such as the CDER and the IPP, indicates that Client requires 24/7 protective supervision. Currently, Mother receives 283 IHSS hours per month, the maximum allowable under the law, which implies that Claimant has a deficit of over 400 hours of supervision.

7. By its own admission, KRC’s offer of 80 PA hours per month is not based on any assessment of Claimant’s needs, as required by section 4512, subdivision (b).

KRC's offer is based solely on the regional center's desire to settle this matter. KRC's assertion that Claimant's request for 200 PA hours is duplicative of Mother's IHSS hours is also not borne out by the evidence. Claimant's proposed weekly schedule does not show any duplication of IHSS hours, and KRC was unable to identify any specific periods in which duplications would occur. (Ex. G).

8. Under these circumstances, Claimant has demonstrated a need for 200 PA hours per month to achieve the stated IPP goals of allowing her to participate in the community and to remain safe in her home environment with her family. Claimant has also exhausted the use of IHSS as a generic resource. Therefore, pursuant to section 4512, subdivision (b), KRC must fund Claimant's request for 200 hours of PA services per month.

ORDER

Claimant's appeal is granted. Kern Regional Center must fund 200 hours per month of personal assistant services for Claimant.

DATE:

JI-LAN ZANG

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 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.