

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

In the Matter of:

CLAIMANT

and

TRI-COUNTIES REGIONAL CENTER,

Service Agency.

DDS No. CS0030933

OAH No. 2025100672

DECISION

Chris Ruiz, Administrative Law Judge (ALJ), Office of Administrative Hearings (OAH), State of California, heard this matter by videoconference on November 7, 2025.

Annie Betterley, Fair Hearings Manager, represented Tri-Counties Regional Center (service agency).

Claimant's father (father) represented claimant. The names of claimant and his family members are omitted to protect their privacy and to maintain the confidentiality of this proceeding.

The matter was submitted for decision at the conclusion of the hearing on November 7, 2025.

ISSUES TO BE DECIDED

Shall the service agency be ordered to fund:

1. The replacement, or professional cleaning, of the carpet in claimant's bedroom?

2. 98 hours of Protective Supervision Services?

3A. Environmental Modifications and Safety Adaptations: Comprehensive home modifications to address biohazard contamination and safety hazards:

- Biohazard remediation of residential carpeting contaminated with feces and urine throughout home
- Biohazard decontamination and repainting of walls with fecal smearing
- Door replacement
- Window blind replacement
- Replacement of toys and household items contaminated with feces and discarded
- Furniture repair or replacement for items damaged beyond safe use

3B. Specialized safety furniture and bedroom modifications:

- Shatter-resistant closet door system

- Safety-designed locking dresser and nightstand appropriate for child with autism and destructive behaviors
- Secured storage solutions to safely store clothing and personal items

3C. Professional safety assessment and environmental modifications:

- Stove locks and guards to prevent fire-setting access
- Fireplace locks and barriers to prevent entrapment
- Window locks and alarms to prevent elopement
- Door alarms and monitoring systems

EVIDENCE RELIED ON

In making this Decision, the ALJ relied on service agency's exhibits 1 through 16, claimant's exhibits A through X (there is no exhibit J), and the witness testimony of Maria Calvario-Grajeda, Sabrina Smith, and father.

FACTUAL FINDINGS

Jurisdictional Matters

1. The service agency determines eligibility and provides funding for services and supports for people with developmental disabilities under the Lanterman Developmental Disabilities Services Act (Lanterman Act), among other entitlement programs. (Welf. & Inst. Code, § 4500 et seq.) All statutory citations are to the Welfare and Institutions Code (Code) unless otherwise noted.

2. On September 9, 2025, service agency sent claimant a Notice of Action letter (Exhibit 2), which denied funding for carpet replacement, or professional carpet cleaning, in claimant's bedroom.

3. On October 9, 2025, service agency sent claimant a Notice of Action letter (Exhibit 9), which denied funding for 98 hours, per week, of protective supervision services.

4. On October 20, 2025, claimant requested an administrative hearing regarding the two above-stated denials. Additionally, claimant asserted Issues 3A, 3B, and 3C, which were mentioned, in part, in prior correspondence with service agency. However, the matters requested in Issues 3A, 3B, and 3C were not fully discussed by the parties as part of the Individual Program Plan (IPP) process, some of these matters was not specifically requested by claimant, and none of these matters were denied in writing by service agency. Nevertheless, service agency did not object to Issues 3A, 3B, and 3C being considered and decided at hearing.

Claimant's Background and History with Service Agency

5. Claimant is a five-year-old male who is a consumer of the service agency based on the eligible category of autism. Claimant resides with his father, mother, and two older typical siblings. Claimant's mother (mother) does not work outside of the family home, and she cares for claimant and his two siblings. Father is currently unemployed, but he is seeking work in the aerospace industry.

6. On July 1, 2025, the parties held an IPP meeting. The service agency agreed to fund 20 hours of respite for claimant. All parties agreed and signed the IPP (Exhibit 4). As of this date, it was reported that claimant was making progress at potty training.

7. On August 3, 2025, claimant sent an email entitled "Urgent: Request for Crisis Intervention, Continuous Supervision, and Home Modification Support for [Claimant]." The email stated that claimant's behaviors had escalated "to the point that he requires continuous, two-person, eyes-on supervision during all waking hours to prevent immediate and significant risk of property destruction or personal danger." (Exhibit B.)

8. On August 5, 2025, Maria Calvario-Grajeda (Grajeda), claimant's service coordinator, sent an email (Exhibit C) to father informing him of the process to request In-Home Supportive Services (IHSS) assistance from the County of Ventura's Department of Social Services (VDSS).

9. On August 11, 2025, father responded and stated the claimant requires protective supervision and constant safety support. Father reported that, in the prior 48 hours, claimant attempted to climb into a fireplace and became partially stuck, which required father to physically rescue claimant. Claimant also had set a napkin on fire using the stove. Claimant also stripped naked and smeared feces all over his room and himself, requiring cleaning and bathing. Claimant also destroyed the back panel of his bedroom door, and claimant's bedroom carpet was contaminated with urine and feces, despite repeated cleanings. Father requested emergency vendorization and reimbursement for a caregiver the family had located, and an emergency reassessment of claimant's needs. Father relied on Code section 4648, subdivision (a)(3), and California Code of Regulation (CCR), Title 17, section 54324 (Exhibit C). The evidence presented did not establish that claimant hired a caregiver, and claimant did not request reimbursement at hearing.

10. On August 12, 2025, Grajeda responded to claimant by email and stated that a referral for Applied Behavioral Analysis (ABA) therapy services had been sent to

Carelon and that claimant needed to contact Carelon to begin ABA services. Grajeda also clarified the IHSS assessment process (Exhibit C).

11. On August 21, 2025, Grajeda sent a follow-up email to claimant regarding ABA therapy and personal assistance. (Exhibit G).

12. On August 28, 2025, Grajeda spoke to mother and informed her that ABA was the best course of action to change claimant's behaviors, and that service agency would not fund carpet cleaning or replacement. Mother understood service agency's reasoning and acknowledged that cleaning or replacing the carpet would not be a long term solution.

13. Sabrian Smith (Smith), is a service agency Service Supports Manager who is also Grajeda's supervisor.

14. On September 8, 2025, Smith sent an email to claimant which indicated that, as of approximately September 4, 2025, claimant's parents no longer agreed with service agency's position that it was unable to fund cleaning or replacement of the carpet in claimant's bedroom. Service agency personnel had previously informed mother that the service agency could not fund this service and mother initially did not object. Smith also stated that ABA services were the most appropriate and effective way to meet claimant's needs. Smith further explained that a Notice of Action letter would follow regarding the carpet cleaning (Exhibit I).

15. On September 9, 2025, the service agency notified claimant that his request for funding for professional carpet cleaning, or replacement of the carpet in claimant's bedroom, was denied. The service agency cited Code sections 4512, subdivision (b), and 4646.4, subdivision (a)(4), in support of the denial. The letter also stated that the service agency agreed to fund an increased amount of respite, namely

40 hours per month. The service agency also agreed to fund 25 hours of Personal Assistance (PA) hours, per month, while the family completed the IHSS determination. The service agency also funded a GPS tracker device, a home monitor, and a safety kit for claimant. The service agency also agreed to assist claimant in accessing ABA services through Carelon, Medi-Cal's administrator of behavioral services. Service agency concluded that ABA services were the most beneficial manner to address claimant's behavioral issues that caused damage to his carpet.

16. On October 7, 2025, service agency sent a letter (Exhibit N) to claimant. Service agency agreed to increase funding for PA hours from 25 hours per month to 206 hours per month, until the IHSS determination was made. Service agency offered to fund a PA vendor directly, or via Self-Directed Services, so that claimant could chose his desired PA provider.

17. On October 9, 2025, service agency sent a letter (Exhibit O) to claimant. The letter discussed claimant's recent request for 98 hours per week of Protective Supervision services. The letter states, "[Y]ou have used the phrase "Protective Supervision"; Protective Supervision is not a service that is funded by Regional Centers. Rather, Protective Supervision is a service provided through In-Home Support Services, funded through the Ventura County Department of Social Services." The service agency again reiterated the actions it had taken to assist claimant in obtaining IHSS hours, ABA services, and Medi-Cal funding for diapers. The service agency stated that, while claimant was waiting for the IHSS determination, the service agency is able to provide additional services to help with day-to-day support and supervision needs, in addition to the supports available through the school district and beyond what a parent is typically expected to provide for a child of claimant's age without a disability. The service agency referenced its Service Policy Guidelines on Family Supports for

School-Age Children and Young Adults, as detailed on the service agency's website. Pursuant to Code section 4646.4, subdivision (a)(4), service agency concluded that, "[T]here is an assumption that any 5-year-old requires a close level of supervision and parents take the primary responsibility for that supervision." This letter served a denial of claimant's request for 98 hours, per week, of Protective Services.

Other Evidence Presented

ABA THERAPY OFFERED

18. On October 28, 2025, personnel from Addison Behavior contacted the service agency and reported that they initially contacted claimant's family on October 8, 2025, and sent an intake packet to family for completion. On October 15, 2025, Addison Behavior contacted claimant regarding the packet, and claimant stated the packet had been completed and submitted to Addison. However, after Addison could not locate claimant's completed packet, Addison requested that claimant resubmit the intake packet. Claimant informed Addison that the completed packet had inadvertently been deleted, but that claimant would complete and submit the intake packet documents by the end of the day. As of October 27, 2025, Addison had not received a completed intake packet from claimant. Addison can not begin providing ABA services to claimant until the intake packet is submitted by claimant.

IHSS Hours

19. On October 22, 2025, VDSS performed an assessment of claimant's situation. Claimant was found eligible to receive 223 hours and 43 minutes, per month, or 51 hours, and 40 minutes, per week, of IHSS services (Exhibit T). Only page number one of the IHSS assessment was submitted as evidence and on the bottom of the page it says, "page 1 of 7." Pages two through seven are not in evidence. Therefore, it was

not established how VDSS assessed claimant's needs. For example, the document states that claimant needs 168 hours, per week, of "Protective Services." However, VDSS only agreed to fund 51 hours and 40 minutes, per week, of protective services. The evidence presented did not establish why VDSS apparently concluded that claimant requires 168 hours, per week, of Protective Services, but is only eligible to receive approximately 51 hours per week.

20. Exhibit 13 is a document produced by the California Department of Social Services which is entitled "In-Home Supportive Services (IHSS) Protective Supervision Services for Minor Children." These services are available to minor children who meet certain criteria. Protective Supervision services are described as an IHSS provider watching a minor to keep them safe by stopping them from doing things that will cause them to get hurt.

21. Claimant requested funding for Protective Supervision hours from service agency. Claimant presumably used the term "Protective Supervision" because VDSS uses this terminology. However, it was established that service agencies do not fund for "Protective Supervision" and have no methodology for doing so. Instead, service agencies fund respite hours or PA hours in order to provide support for consumers. Both respite and PA hours provide an outside person to come to claimant's home to watch claimant and keep him safe. The evidence presented did not establish that there is any substantive difference between the level of supervision provided by IHSS protective supervision hours, as compared to service agency's respite or PA hours. All these services would provide funding for a person to watch claimant and keep him safe.

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HOURS OF SUPERVISION REQUIRED FOR CLAIMANT

22. Claimant sleeps from 9 p.m. to 6:30 a.m. It was not established that claimant's parents are unable to keep claimant safe during sleeping hours and before school. Parents can utilize the service agency funded monitor and gps tracker to ensure claimant's safety during this time, in the event claimant wakes up during the night.

23. Claimant attends school from approximately 7:45 a.m. to 2:30 p.m. This leaves approximately six and one-half hours, Monday through Friday, from 2:30 p.m. to 9 p.m., where claimant may require funding for supervision, which totals 32 and one-half hours for Monday through Friday. This calculation does not include any deductions for time when claimant is being supervised by a person other than his parents, such as swimming lessons, ABA therapy, or other events.

24. On Saturday and Sunday, claimant is awake approximately 14 and one-half hours per day, which totals 29 hours for each weekend, where claimant may require funding for supervision. This calculation does not include any deductions for time when claimant is being supervised by a person other than his parents, such as swimming lessons, ABA therapy, or other events.

25. Combining the totals from the two Factual Findings 23 and 24, claimant established a potential need for supervision or assistance, per week, of 61 and one-half hours. On a monthly basis, this equates to approximately 264 and one-half hours.

26. Claimant was recently approved to receive approximately 223 and one-half hours, per month, of IHSS hours. Additionally, service agency previously offered to fund 206 hours of PA hours per month, 40 hours of respite per month, and ABA therapy, which could provide up to 40 hours, per week. All of these offered services ,

would provide a person, other than claimant's parents, to supervise claimant. The evidence presented did not establish claimant has utilized any of the PA hours, respite hours, or ABA therapy previously offered by service agency. Claimant apparently believed "protective supervision" hours offered a higher level of care than PA or respite hours. However, the evidence presented established that, in either case, an adult would be present to supervise claimant to ensure he does not hurt himself or place himself in danger.

Findings Regarding Claimant's Needs and Service Agency's Offered Services

27. In early August 2025, claimant's behavior began to change dramatically. Service agency consistently responded to claimant's inquiries and requests, albeit not always in the manner claimant desired. Service agency initially offered funding for respite and PA hours, and assisted claimant in applying for IHSS hours and ABA therapy. As the parties continued to communicate, service agency offered funding for ABA therapy, and increased respite and PA hours, all of which were available to claimant by early October 2025.

28. While there was a brief delay between claimant's initial request in August 2025 and service agency's increased offers in October 2025, these delays were the result of an unexpected dramatic increase in claimant's behavior, the service agency's assessment of those needs and its obligation to pursue generic services, and time gaps in correspondence between the parties. Additionally, if claimant had promptly returned the intake packet to Addision, claimant could be receiving ABA therapy, which would provide an additional outside source of supervision for claimant, potentially for 40 hours per week.

29. The evidence presented established that service agency responded to claimant's request for services in a reasonable and timely manner. The evidence presented also established that claimant's need for supervision can adequately be met with a combination of available generic services (IHSS hours) and service agency funded services (Respite hours, PA hours, and ABA therapy).

Issue Numbers 3A, 3B, and 3C

30. As to the matters stated in Issues to Be Decided numbers 3A, 3B, and 3C, the evidence presented established that claimant and service agency did not fully utilize the IPP process before requesting a due process hearing. The service agency funded a GPS tracker, a monitor, and a safety kit for claimant. The evidence presented did not establish whether claimant has utilized these items, or whether they met some, all, or none of claimant's needs. It was not established that claimant notified the service agency that these items were insufficient to meet claimant's needs.

LEGAL CONCLUSIONS

Jurisdiction and Burden of Proof

1. An administrative hearing to determine the rights and obligations of the parties is available under the Lanterman Act. A consumer may appeal a contrary regional center decision under Code sections 4700 through 4717. In this matter, the service agency issued two "denial letters" regarding claimant's request for funding for carpet cleaning, or replacement, and funding for 98 hours of personal supervision.

2. 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.) This 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.)

3. The party asserting a claim or proposing to make changes to the status quo generally has the burden of proof in administrative proceedings. (See, e.g., *Hughes v. Board of Architectural Examiners* (1998) 17 Cal.4th 763, 789, fn. 9.) In this case, claimant is seeking funding for new services. Therefore, claimant has the burden of proof in this matter.

4. Code section 4646.5 defines the content of the planning process for the Individual Program Plan (IPP). It must include a statement of goals based on the consumer's needs and time limited objectives for implementing the goals. The goals and objectives should maximize opportunities for the consumer to develop relationships, be part of community life and to develop competencies to help accomplish the goals. The IPP process must also include a schedule of the type and amount of services and supports to be purchased by the service agency, or obtained from generic agencies or other resources, in order to achieve the IPP goals.

5. Code section 4648 describes what a service agency must do to achieve the stated objectives of the IPP. In securing the needed services and supports for a consumer, a service agency must find services that are flexible and individually tailored to the consumer. By vendorization or contract the service agency may purchase services from any individual or agency the regional center and consumer determine will best accomplish all or any part of the IPP.

6. Code section 4648, subdivision (a)(8), prohibits the use of a service agency funds "to supplant the budget of any agency which has a legal responsibility to

serve all members of the general public and is receiving public funds for providing those services." These are commonly referred to as "generic resources." However, subdivision (g) provides that, where there are identified gaps in the system of services and supports, the service agency may provide the services directly.

7. Under Code section 4512, subdivision (b), services provided must be cost-effective and the service agency is required to control costs so far as possible, and to otherwise conserve resources that must be shared by many consumers. (See, e.g., §§ 4640.7(b), 4651(a), 4659, and 4697.) However, Code section 4659 specifies that this statute shall not be construed to impose an additional liability on the parents of children with developmental disabilities, nor to restrict eligibility for or deny services to, a consumer who is unable to pay. To be sure, the obligations to other consumers are not controlling in the decision-making process, but a fair reading of the law is that a regional center is not required to meet a disabled person's every possible need or desire, in part because it is obligated to meet the needs of many persons.

Claimant's Request for Emergency Vendorization

8. Claimant relied on California Code of Regulations, Title 17, section 54324, which permits the service agency to approve emergency vendorization for an applicant, prior to the receipt of a completed vendor application, if the regional center determines that the health or safety of a consumer is in jeopardy and no current vendor is available to provide the needed service. If emergency vendorization is approved, the applicant may provide services for no more than 45 days. Claimant contended this regulation required that the vendorization process begin "immediately." However, this regulation does not contain the word "immediately." In any event, claimant is not seeking reimbursement for services procured during the time claimant contends emergency vendorization should have been authorized under

this regulation. Therefore, this contention is now moot because substantial IHSS hours, PA and respite hours, as well as ABA therapy, are currently available to claimant. Therefore, emergency vendorization is no longer at issue.

9. As to the compensatory services requested by complainant in Exhibit W, it was not established that claimant's parents could not adequately supervise claimant and keep him safe between August and October 2025. While claimant's parents were obviously dealing with a difficult and dramatic change in claimant's behavior during this time, which resulted in the incidents reported to service agency by father, there were two adults present in claimant's home to supervise claimant during this time. Parents of minor children, regardless of disability hold primary responsibility for maintaining a safe and sanitary home. Regional Centers are required to consider parental responsibility for a minor child. Under Code section 4646.4, subdivision (a)(4), the service agency must consider "the family's responsibility for providing similar services and supports for a minor child without disabilities in identifying the consumer's service and support needs as provided in the least restrictive and most appropriate setting." While claimant's recent behavior has made his parent's lives more difficult, it was not established that claimant's parents could not provide adequate safety and supervision, albeit in a difficult situation, until services could be put in place, such as IHSS hours, ABA therapy, and respite and PA hours.

Claimant's Request for Carpet Cleaning or Replacement

10. Claimant requested service agency provide funding for the cleaning or replacement of his bedroom carpet, and the repair or replacement of other household items destroyed or damaged by claimant. However, parents of minor children without disabilities are often required to pay for damage to household items, such as furniture, painted walls, flooring, or broken windows. It is acknowledged that most minor

children without disabilities would not smear feces on their bedroom carpet. However, minor children without disabilities can damage their home in other ways. A few examples are: using crayons or sharpie pens to "color" on painted walls; breaking glassware, plates, or furniture; by spilling drinks, food, or even paint on the floor; or by tracking mud into the house. Any of these acts could require parents to repair, clean, or replace household items. Therefore, pursuant to Code section 4646.4, subdivision (a)(4), service agency is not required to fund the cleaning, repair, or replacement of claimant's bedroom carpet or other items damaged by claimant in his home because these are "similar services and supports for a minor child without disabilities" which claimant's family is responsible for under the law. To find otherwise would require regional centers to become the insurer of consumer's home. For example, if a consumer accidentally caused a fire, which resulted in the total loss of that consumer's home, a service agency would be required to fund the complete replacement of that home, which was not intended under the Lanterman Act.

Claimant's Request for 98 Hours of Protective Services

11. Based on the facts and reasoning set forth in Factual Findings 5 through 29, and Legal Conclusions 8 and 9, claimant did not carry his burden on this issue. Claimant failed to establish that service agency's offered services are insufficient to meet his needs.

Issue Numbers 3A, 3B, and 3C

12. Based on Factual Finding 30, claimant failed to establish that the GPS tracker, monitor, and safety kit, funded and provided by service agency were insufficient to meet his needs. Claimant also failed to establish that, pursuant to Code section 4646.4, subdivision (a)(4), the matters requested were not "similar services and

supports for a minor child without disabilities" which claimant's family is responsible for under the law.

ORDER

1. Claimant's appeal is denied and his request for carpet cleaning or carpet replacement is denied.
2. Claimant's appeal is denied and his request for funding for 98 hours of personal supervision is denied.
3. Claimant's appeal as to Issue 3A, 3B, and 3C, is denied. However, claimant may request a safety assessment, if claimant believes the safety products previously funded by the service agency are insufficient and do not meet claimant's needs.
4. Tri-Counties Regional Center's denial of claimant's requests for funding, are affirmed.

DATE:

CHRIS RUIZ

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.