

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

In the Matter of:

CLAIMANT

and

NORTH BAY REGIONAL CENTER, Service Agency.

DDS No. CS0030749

OAH No. 2025100829¹

PROPOSED DECISION

Administrative Law Judge Mario M. Choi, State of California, Office of Administrative Hearings, heard this matter on November 20, 2025, in Santa Rosa, California.

¹ By order dated October 28, 2025, three other matters (OAH Nos. 2025100832, 2025100834, and 2025100836) were originally consolidated with this matter for hearing and decision. Two of those matters resolved prior to hearing. After hearing and by order dated November 21, 2025, the third matter (OAH No. 2025100836) was unconsolidated for further proceedings.

Claimant represented themselves.²

Fair Hearings Specialist Beth DeWitt represented service agency North Bay Regional Center (NBRC).

The record closed and the matter was submitted for decision on November 20, 2025.

ISSUE

May claimant use Self Determination Program (SDP) spending plan funds to pay for aluminum foil, pipe cleaners, essential oils, and/or fidget spinners?³

FACTUAL FINDINGS

1. Claimant is a 43-year-old consumer eligible for services from NBRC under the Lanterman Developmental Disabilities Services Act (the Lanterman Act, Welf. &

² This decision uses claimant's preferred pronouns of they/them/their.

³ In its Notice of Action (NOA), NBRC also denied claimant's funding request for a community cuddling group. Because the parties resolved this request prior to hearing, no decision will be rendered on this issue.

Inst. Code, § 4500 et seq.)⁴ because they are substantially disabled by autism spectrum disorder (autism or ASD).

2. On April 1, 2025, an Individual Program Plan (IPP) meeting occurred virtually with claimant, their advocate, and with NRBC. Claimant signed the IPP on May 7, 2025. Claimant's desired outcomes include self-advocacy at work and enhancing communication skills for needs and getting accommodations. In their own IPP statement, claimant seeks to "promote self reliance, independence, and self advocacy-skills in employment settings, attend the activity center at North Bay Industries" and to "regain trust in the regional center so [they] may resume additional services without fear of more abuse and discrimination." Claimant, who stated that they wrote the IPP, requests that NBRC and others utilize the "Neurodiversity Protocol for Autism," which claimant created and is included in claimant's IPP.

3. Claimant elected to participate and was enrolled in SDP effective September 1, 2025. The SDP was added to the Lanterman Act 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 to implement their IPP." (§ 4685.8, subd. (a).) An IPP for an SDP participant is subject to the same requirements as for Lanterman Act consumers who do not participate in the SDP. (§ 4685.8, subd. (c)(4).) Just as for Lanterman Act consumers who do not participate in the SDP, the SDP consumer's IPP identifies the consumer's

⁴ All statutory references are to the Welfare and Institutions Code, unless otherwise stated.

needs and goals, and describes services the regional center will provide or fund to meet those needs and goals. (§§ 4646, 4685.8, subd. (b)(2)(H)(i).)

4. Claimant and NBRC agreed to an operative SDP budget of \$89,356.23 on July 25, 2025. Claimant then developed a spending plan to use their available budget funds to purchase goods, services, and supports necessary to implement their IPP. Claimant's spending plan became effective September 2025, and multiple reallocations of claimant's SDP budget have been made based on claimant's funding requests. As relevant to this matter, \$1,151.61 of claimant's SDP budget was designated under service code 333, "Community Integration Supports," for "materials for stimming and sensory needs." The approved amount pays for "noise cancelling headphones, color changing lights, weighted plushies, earplugs, sound panels, weighted blankets, and weighted plush balls." It is unclear which IPP goal these items support.

5. Claimant requested approval to use SDP funds to pay for aluminum foil, pipe cleaners, essential oils, and fidget spinners. On October 1, 2025, NBRC issued the NOA denying claimant's request. Relying on the SDP Service Definitions dated June 7, 2018, which are definitions of allowed Medicaid waiver goods and services, NBRC determined that claimant's request for these supplies did not meet those definitions and, further, they were "not evidence-based requests."

6. Claimant timely appealed the NOA, and this hearing followed.

NBRC Evidence and Argument

7. Ellisa Reiff testified at hearing. She has worked at NBRC for 23 years in a number of positions, including as a service coordinator, supervisor, and associate director of client services. She has supervised the SDP program for the past two years.

8. Reiff testified about the process NBRC engages in to approve an SDP budget and an SDP spending plan. An interdisciplinary team, comprised of the client, their representative and others, and NBRC staff, undertakes a person-centered planning process to develop a “wish list” for the client. The team discusses what can be funded and how to get services in place. A budget is created from that process, and it must be signed off by NBRC’s Chief Financial Officer before it can go into effect. Once the budget is in place, a spending plan is created with the intention that the client will use those budgeted funds to meet their goals and objectives outlined in the IPP.

9. A client can generally make decisions on how to reallocate funds within their SDP budget based on the agreed-upon spending plan. However, because a regional center must certify a client’s spending plan, NBRC must review and refer to a “wide range of documents” before approving a request to reallocate SDP funds. Documents including federal requirements, the Lanterman Act, directives from the Department of Developmental Services (DDS), and NBRC policies and procedures are reviewed to make sure that a request can be legitimately funded. And because NBRC is the “payor of last resort,” generic resources must be ruled out before a NBRC can fund a request with SDP funds.

10. Reiff testified that although NBRC “tries to be as flexible as possible” when it comes to SDP funding requests, NBRC was unable to fund claimant’s request for the requested supplies. NBRC determined that there are generic or natural resources available, that the requested items are not eligible for federal financial participation, that the request does not address an identified need, and that it is a request that is not “evidence based.”

First, NBRC argues that there are generic and natural resources available to claimant. The Lanterman Act requires an SDP participant to exhaust generic supports

and services before SDP funds may be used. NBRC's Purchases of Services (POS) policy, which was approved by NBRC's Board of Directors and DSS, provides that, "All generic resources must be exhausted before services are provided." Further, the POS policy states that NBRC will fund services so long as the "service or support does not duplicate one already provided through natural supports, generic services or purchases by the regional center." Reiff testified that generic and natural services and supports are available for claimant. For instance, Reiff testified that NBRC has led donation drives to collect various items for its clients; the items claimant seeks can also be the subject of a donation drive. Reiff also stated that other natural supports, such as friends and family, can help purchase these items for claimant.

Second, NBRC contends that because claimant's requested items are not eligible for federal financial participation, those items cannot be funded. The Lanterman Act provides that SDP funds can be used only to fund items that are eligible for Medicare and Medicaid funding. As Enclosure A to the July 8, 2024, DSS directive entitled "Self-Determination Program: Updated Goods and Services" (DDS directive) states, SDP is part of a federal government Medicaid waiver and SDP participants may only purchase goods and services that are allowed by that waiver. Good and services are defined in the SDP Service Definitions. Because none of the requested items fall within any of the SDP Service Definitions, NBRC argues that it cannot fund the purchase of those items.

Third, within the context of "participant-directed goods and services," which is a service where SDP funding is allowed, NBRC argues that claimant's request does not address an identified need in the IPP or fulfill the necessary requirements for such funding. As defined by the SDP Service Definitions:

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; promote 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 service 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 Program Plan and purchased from the participant's Individual Budget. Experimental or prohibited treatments are excluded.

The DDS directive requires participant-directed goods and services to address and meet one of the federal waiver requirements: 1) promote interdependence and inclusion in the community; 2) decrease the need for other Medicaid services; or 3) increase the person's safety in the home environment. NBRC argues that claimant's request does not ameliorate their autism symptoms or address claimant's IPP stated goals. NBRC also contends that claimant's request does not promote interdependence and inclusion in the community, decrease the need for other Medicaid services, or increase their safety in the home environment.

Finally, NBRC argues that claimant's request is not evidence-based, that is, the request is not supported by objective research. Section 4648, subdivision (a)(17), provides that regional centers cannot make purchases "that have not been clinically determined or scientifically proven to be effective or safe or for which risks and complications are unknown." And, as stated in NBRC's POS policy, NBRC will fund services where "[t]he service is supported by research as evidence based, effective and not harmful." NBRC contends that while claimant has provided some research on stimming, those studies speak more about attention hyperactivity deficit disorder and are inclusive as to the reasons for and effectiveness of stimming. NBRC also notes that claimant's request is based on their own practices and is not based on objective information.

11. Claimant has applied for supplemental security income (SSI), which could potentially cover the items claimant is requesting. Until claimant obtains SSI, Reiff stated that NBRC can assist claimant in gathering the requested items claimant seeks, but will not allow claimant to use SDP funds to purchase these items.

Claimant's Evidence and Arguments

12. Claimant argues that the stimming materials they requested meet the SDP Services Definition for participant-directed goods and services. They argue that these items will lower their stress in social situations, which in turn would lower their potential trauma and decrease the probability of accidents.

13. Claimant argues that stimming, also known as self-stimulating behaviors or stereotypy, is "essential for autistic people to have a good quality of life" as it "helps lower stress and improve concentration, memory, and emotional regulation" and, in turn, "facilitate[s] skill development." Referring to various stimming articles, including a

2019 article on autistic adults' view and experiences of stimming, claimant contends that, as an adaptive mechanism, stimming is calming and is part of "autistic culture."

14. Claimant explained how each of the requested items has helped them with touch, hearing, and proprioception in the past. Aluminum foil feels smooth and cool to the touch, produces metallic noise when bent, and requires force to mold. Pipe cleaners are fuzzy to the touch and require force to mold. Essential oils reproduce smells of nature on demand. And claimant can "feel the forces at work when [they] spin and balance" fidget spinners.

15. Claimant argues that NBRC's denial is "not evidence-based" because NBRC did not perform any assessments on whether these items were effective on them. Claimant contends that the items that have already been approved (Factual Finding 4) cannot be carried with them and used in public, and they argue that they have the right "to exist in public." Claimant's arguments are not persuasive.

LEGAL CONCLUSIONS

1. The Lanterman Act entitles claimant to an administrative fair hearing to review a service agency's service decisions. (§ 4710 et seq.) Claimant bears the burden of proof in this matter and the standard of proof required is a preponderance of the evidence. (Evid. Code, §§ 115, 500.)

2. Through the Lanterman Act, the State of California has accepted responsibility for persons with developmental disabilities. The Lanterman Act mandates that "[a]n array of services and supports should be established . . . to meet the needs and choices of each person with developmental disabilities . . . and to support their integration into the mainstream life of the community." (§ 4501.) The

purpose of the Lanterman Act is twofold: (1) to prevent or minimize the institutionalization of persons with developmental disabilities and their dislocation from family and community, and (2) to enable persons with developmental disabilities to approximate the pattern of everyday living of nondisabled persons of the same age and to lead more independent and productive lives. (§§ 4501, 4685; *Association for Retarded Citizens v. Department of Developmental Services* (1985) 38 Cal.3d 384, 388.)

3. DDS is the state agency responsible for implementing the Lanterman Act. It contracts with regional centers that are charged with the responsibility of providing developmentally disabled individuals with access to services and supports best suited for them. (§ 4620, subd. (a).)

4. Services provided under the Lanterman Act are to be provided in conformity with the IPP. (§ 4646.) Consumer choice plays a part in the construction of the IPP. (*Ibid.*)

5. Regional centers ensure that services and supports assist individuals with developmental disabilities in achieving the greatest self-sufficiency possible and to secure services and supports that meet the needs of the consumer, as determined by the IPP. (§ 4648.) While services and supports are flexible and individually tailored to the consumer, regional centers must also be fiscally responsible. (*Ibid.*)

6. Individuals voluntarily participate in the SDP program. (§ 4685.8, subd. (d).) SDP is 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." (*Id.*, subd. (c)(6).) SDP "shall only fund services and supports . . . that the federal Centers for

Medicare and Medicaid Services determines are eligible for federal financial participation." (*Ibid.*) Services and supports are defined by the SDP Service Definitions.

7. Spending plans of SDP participants must "identify the cost of each good, service, and support that will be purchased with regional center funds." (§ 4685.8, subd. (c)(7).) Regional centers are required to review SDP spending plans "to verify that goods and services eligible for federal financial participation are not used to fund goods or services through generic agencies." (*Id.*, subd. (r)(7).)

8. "The participant shall utilize the services and supports available within the Self-Determination Program only when generic services and supports are not available." (§ 4685.8, subd. (d)(3)(B).) "The participant shall only purchase services and supports necessary to implement their IPP and shall comply with any and all other terms and conditions for participation in the Self-Determination Program" required under the Lanterman Act (*Id.*, subd. (d)(3)(C).)

9. Regional centers may not make purchases "that have not been clinically determined or scientifically proven to be effective or safe or for which risks and complications are unknown." (§ 4648, subd. (a)(17).)

Discussion

10. It is undisputed that NBRC has already agreed to allow claimant to use SDP funding to pay for several "materials for stimulating and sensory needs," including noise cancelling headphones, color changing lights, weighted plushies, earplugs, sound panels, weighted blankets, and weighted plush balls. (Factual Finding 4.) Thus, to the extent that NBRC now argues that the requested stimulating items in this matter are not eligible for "federal financial participation," that argument is rejected. NBRC

has not demonstrated how the items it has agreed to fund are somehow different from claimant's current request.

11. Still, claimant has not, by a preponderance of the evidence, demonstrated that NBRC's denial of claimant's requested items was incorrect. First, a preponderance of the evidence has not shown how the requested items will assist claimant in fulfilling their IPP goals of enhancing communication skills or self-advocacy at work. Although claimant's argument that they should be able to exist in public is a reasonable argument, claimant must still show the link between their use of the requested items and their stated IPP goals. That link has not been established.

12. Claimant has also not established that they have exhausted all generic or natural resources prior to seeking SDP funding for these items. Claimant has not shown that they are unable to personally purchase these items or that they are unable to obtain these items from friends or family or other community organizations. And, as NBRC has persuasively argued, it has assisted consumers in obtaining similar goods and services and there is no reason why NBRC cannot help claimant obtain the requested items.

13. The evidence has not shown that the purchases of claimant's requested items are "clinically determined or scientifically proven to be effective." It is understandable that stimming may reduce stress, but there must be an objective, evidentiary basis for that determination. Although claimant has produced some articles concerning stimming, none of the articles are clinical or scientific studies that show that stimming is proven to be effective for alleviating issues or symptoms caused by autism.

14. Because the evidence has not, by a preponderance, demonstrated that the requested items should be funded by SDP funds at this time, claimant's appeal must be denied.

ORDER

Claimant's appeal is denied.

DATE:

MARIO M. CHOI

Administrative Law Judge

Office of Administrative Hearings

BEFORE THE
DEPARTMENT OF DEVELOPMENTAL SERVICES
STATE OF CALIFORNIA

In the Matter of:

Claimant

OAH Case No. 2025100829

Vs.

DECISION BY THE DIRECTOR

North Bay Regional Center

Respondent.

ORDER OF DECISION

On November 25, 2025, an Administrative Law Judge (ALJ) at the Office of Administrative Hearings (OAH) issued a Proposed Decision in this matter.

The Proposed Decision is adopted by the Department of Developmental Services 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 4712.5, subdivision (a)(1), 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 December 16, 2025.

Original signed by:
Katie Hornberger, Deputy Director
Community Assistance and Resolutions Branch