

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

In the Matter of:

CLAIMANT

and

SAN DIEGO REGIONAL CENTER, Service Agency

DDS No. CS0031051

OAH No. 2025110109

PROPOSED ORDER OF DISMISSAL

On October 15, 2025, the Department of Developmental Services (DDS) received an appeal completed by claimant's mother on behalf of claimant, requesting a mediation and fair hearing appealing the decision of San Diego Regional Center (SDRC) not to fund additional free weights and a workout bench for claimant as part of her Self-Determination Program (SDP) spending plan.

DDS transmitted the appeal request to SDRC. By letter dated October 16, 2025, SDRC notified claimant that because her appeal was not submitted within 60 days after receipt of the Notice of Action (NOA), no further action would be taken on the appeal. SDRC also submitted a Notice of Resolution to DDS indicating the same.

On October 17, 2025, claimant submitted to SDRC and DDS a request to reconsider her late-filed appeal.

On November 3, 2025, SDRC forwarded to the Office of Administrative Hearings (OAH) a Request to Set and a Motion to Dismiss Without Prejudice, in which SDRC argues the appeal was not timely filed.

On November 7, 2025, Claimant's representative filed an opposition to the motion to dismiss. In the opposition, claimant's representative acknowledged she received the NOA on July 26, 2025. However, she did not timely file her appeal because her mother had passed away on June 2, 2025, and early in September, her mother-in-law and father-in-law experienced serious health problems that required multiple hospital visits. Claimant's representative wrote that these overlapping crises left her emotionally overwhelmed.

Based on the documentary evidence submitted with SDRC's motion, and claimant's response, the following findings are made:

On July 24, 2025, SDRC issued an NOA stating that it was denying claimant's request to purchase weights and a workout bench set as part of the SDP spending plan. Included with the NOA, SDRC provided claimant with notice of claimant's appeal rights and indicated that an enclosed Fair Hearing Request form must be returned to DDS within 60 calendar days of receipt of the NOA. SDRC sent the NOA and attachments to claimant's representative. The postal service tracking detail indicates it was received and signed for at claimant's address on July 26, 2025, which was acknowledged in claimant's opposition to dismissal.

Welfare and Institutions Code section 4710.5, subdivision (a), provides:

Any applicant for or recipient of services, or authorized representative of the applicant or recipient, who is dissatisfied with a decision or action of the regional center or state-operated facility under this division shall, upon filing a request within 60 days after notification of that decision or action, be afforded an opportunity for an informal meeting, a mediation, and a fair hearing.

California Code of Regulations, title 17, section 50966 provides:

- (a) Upon receipt of a fair hearing request from a claimant, service agencies shall not have the discretion to determine the appropriateness or timeliness of the fair hearing request. All fair hearing requests received by a service agency shall be immediately forwarded to the agency designated for conducting fair hearings and, if applicable, the agency designated for conducting mediations.
- (b) If a service agency believes that a fair hearing request raises issues that are not appropriately addressed through a fair hearing pursuant to Section 4700 et seq. of the Welfare and Institutions Code, or for other reasons does not comply with statutory requirements, the service agency may file a request to have the matter dismissed with the agency responsible for conducting hearings. Such dismissal requests shall state the reasons for the request.

Although SDRC initially declined to take any action on appeal, it later recognized it does not have authority under Regulation 50966 to unilaterally decline to process an appeal request. It submitted claimant's appeal to OAH and requested the matter be dismissed without prejudice. As this matter involves an SDP budget, final decision authority regarding dismissal rests with DDS. (Welf. & Inst. Code, § 4712.5, subd. (e)(1).)

Claimant did not file an appeal until October 15, 2025, well after the 60-day deadline under Welfare and Institutions Code section 4710.5, subdivision (a), passed. Claimant's representative argues that she did not timely file the appeal due to exceptional circumstances. However, Section 4710.5 explicitly states that the opportunity for an informal hearing, mediation, or fair hearing is conditioned on filing a request within 60 days. The statute provides no exceptions. Had the legislature intended for exceptions to the deadline be considered, it could have prescribed such and delineated what circumstances constitute good cause, as it has in other unrelated statutes (e.g., Code of Civ. Pro., § 473, subd. (b).) Its failure to do so in the Lanterman Act indicate that the 60-day deadline is a fixed deadline for appealing a regional center's NOA. However, the effects of this strict deadline are ameliorated because dismissal is without prejudice, meaning the order does not prevent claimant from again requesting SDRC provide the same services.

//

//

//

ORDER

Claimant's appeal is DISMISSED WITHOUT PREJUDICE.

DATE: November 12, 2025

ADAM L. BERG

Presiding Administrative Law Judge

Office of Administrative Hearings

BEFORE THE
DEPARTMENT OF DEVELOPMENTAL SERVICES
STATE OF CALIFORNIA

In the Matter of:

Claimant

OAH Case No. 2025110109

Vs.

DECISION BY THE DIRECTOR

San Diego Regional Center

Respondent.

ORDER OF DECISION

On November 12, 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 November 26, 2025.

Original signed by:
KATIE HORNBERGER
Deputy Director
Division of Community Assistance and Resolutions