

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

In the Matter of:

CLAIMANT

and

SAN DIEGO REGIONAL CENTER, Service Agency

DDS No. CS0031377

OAH No. 2025110180

PROPOSED DECISION

Jami A. Teagle-Burgos, Administrative Law Judge, Office of Administrative Hearings (OAH), State of California, heard this matter by videoconference on December 15, 2025, and January 20 and 21, 2026.

Bridgette Webster, Staff Attorney, represented San Diego Regional Center (SDRC).

Wendy Dumlao, Attorney at Law, represented claimant, who was not present.

Oral and documentary evidence was received. The record was held open for counsel for the parties to submit written closing arguments by January 30, 2026. The

written closing arguments were submitted timely by the parties. Thereafter, the matter was submitted for decision on January 30, 2026.

ISSUES

Is SDRC required to fund Supported Living Services (SLS) at a 2:1 ratio (2 staff to 1 client) for a total of 706 hours each month for claimant, through claimant's self-determination program (SDP)?

Is SDRC required to fund supplemental staffing at claimant's day program, an Enhanced Behavior / Behavior Modification Day Program (BMOD), that is currently approved in the budget at a 1:2 ratio (1 staff to 2 clients), through claimant's SDP?

FACTUAL FINDINGS

Background

1. Claimant is a 37-year-old male. He resides alone in his own apartment but has 24-hour care. According to the record, claimant has been for many years and continues to be eligible for regional center services based on his diagnosis of autism spectrum disorder (autism). He also has a history of seizures but has not had a seizure for several years. He communicates through the use of a letterboard. At some point, claimant's SDRC services transitioned from the traditional service model into the SDP.

2. On October 3, 2025, SDRC issued a Notice of Action (NOA) that it was denying claimant's request to fund supplemental staffing for a behavior day program that was funded into the SDP budget.

3. On October 31, 2025, claimant filed an appeal and argued that SDRC should fund services for supplemental staffing for his day program as his day program approved in the budget was not appropriate for his needs. Claimant also argued that SDRC should fund SLS at a 2:1 ratio (2 staff to 1 client) totaling 706 hours each month. Claimant further argued that SDRC terminated or reduced the following services in claimant's SDP budget: termination of Independent Living Services (ILS) without an appropriate replacement, and reduction of amount of day program; however, at the hearing, claimant dismissed these two issues regarding termination or reduction of services. As such, the Proposed Decision herein is applicable only to the issues regarding funding of services for SLS at a 2:1 ratio (2 staff to 1 client) and funding of services for supplemental staffing at claimant's day program.

4. This hearing followed.

5. SDRC's and claimant's position statements and written closing arguments set forth the parties' respective positions.

Self-Determination Program

6. In 2013, the Legislature enacted Welfare and Institutions Code section 4685.8, requiring the Department of Developmental Services (DDS or the Department) to implement a statewide SDP to provide individuals and their families with more freedom, control, and responsibility in choosing services and supports to help them meet objectives in their Individual Program Plan (IPP). DDS began pilot programs in certain regional centers and oversaw statewide working groups from various regional centers and consumer groups to develop policies and procedures to implement the program.

7. Starting July 1, 2021, the SDP was available to all eligible regional center consumers, who wished to use it. All regional center consumers now have the option to have their services delivered through the SDP model or continue to receive services through the traditional model. With the SDP model, while participants have more choice over which services they receive and who deliver those services, participants also have more responsibility because they must manage their own budget resources with the assistance of a Financial Management Service (FMS) and support from the regional centers. The regional centers must certify that the cost of the SDP does not exceed the cost if the individual were to remain in the traditional services model.

8. After the budget is certified, the participant and regional center must develop a spending plan identifying the cost of each good, service, and support that will be purchased with regional center funds. Each item in the spending plan must relate to goals in the participant's IPP and be identified by a specific service code from a list of codes DDS publishes. A participant can annually transfer up to 10 percent of the funds in any budget category to other budget categories without regional center approval. Transfers exceeding 10 percent require regional center approval.

9. Participants may also create Person Centered Plans, but these plans do not obligate regional centers to fund any of the items listed therein, nor must regional centers approve those plans. However, regional centers are required to certify individual SDP budgets and review spending plans to ensure compliance with applicable laws and federally approved categories.

SDRC's Evidence

10. The factual findings are derived from documentary evidence submitted by SDRC and the testimony of the following SDRC representatives: David Webb-Rex, Chessa Burke, and Melissa Melgar.

11. Aside from jurisdictional documents, a position statement, excerpts of statutes and regulations, and a written closing argument, SDRC submitted the following documentary evidence: a Budget Adjustment dated April 16, 2025; a signed Annual Budget for November 1, 2024, through October 31, 2025; a SDP Budget dated October 14, 2025; a SLS Assessment dated August 13, 2025; Behavior Progress Reports dated March 4, 2025, May 1, 2025, and August 21, 2025; email correspondence with Chessa Burke; email correspondence with David Webb-Rex; Title 19 notes; and DDS Directives for SDP.

TESTIMONY OF DAVID WEBB-REX

12. David Webb-Rex is a Program Manager of SDP at SDRC. Mr. Webb-Rex has a bachelor's degree in education and two teaching credentials in special education. He was a special education teacher for seven years. He has been employed at SDRC since 2001, and he was first a service coordinator, then a participant-choice specialist in SDP, and the program manager for SDP for the last two and a half years. He is familiar with claimant. During the annual renewal of claimant's SDP budget, there were three IPP meetings with claimant's service coordinator and the family in August and September 2025.

13. Concerning SLS, SDRC and the family agreed to make a shift because the previous budget calculated ILS and SLS and there was a concern because SLS and ILS were duplicative. The ratio in the budget for SLS and ILS was 1:1 (1 staff to 1 client)

and not 2:1 (2 staff to 1 client). Also, a consumer with a higher level of need would usually have SLS, and "in real life" claimant was receiving SLS and not ILS. The DDS Directive regarding SDP budgets, dated January 11, 2019, states SDP budgets are supposed to mirror what would have been provided in the traditional services model, as authorized by the regional center. Claimant's SDP budget on October 14, 2025, was agreed to by the family and SDRC before they had disagreements. The ILS was switched to SLS at the highest ratio of 108.3 hours each month with a ratio of 1:1 (1 staff to 1 client), but claimant's intention is to have 2:1 ratio (2 staff to 1 client) in his SDP spending plan with SDP providers. Mr. Webb-Rex believes claimant wants to use some of his day program hours to have a 2:1 ratio (2 staff to 1 client) for SLS. He found what the family wants is restrictive, and he does not see a justification for "ongoing 2:1 SLS forever" although he understands there would be a transition in having SLS, so SDRC agreed on a "time-limited 2:1 SLS." He referenced this as a "fade out plan." He believes SDRC worked with the family in good faith.

14. Concerning claimant's day program, in prior years, he had a specific day program called Community Integration Training (CIT) as the vendor using service code 055, for 138 hours a month, which was the maximum hours for this vendor. This had to be changed with "rate reform" wherein this provider, and some others, needed to "cross walk to a new [service] code that does exist in the new rate reform." SDRC was also concerned because claimant was "not really going to that program [CIT] and this model for payment was not fitting the actual program that he was using in real life, and service code 055 was slated to end under DDS's rate reform." Hence, SDRC was not proposing to end claimant's day program but instead to "mirror what we were doing traditionally, which was to cross walk . . . [and] propose a DDS rate for a behavior day program if claimant was not in a traditional day program." The goal was to maintain claimant's current level of services but with calculations that were "not

duplicative or not currently being used by the claimant or not being ended in rate reform.”

15. Mr. Webb-Rex explained most consumers have “regular day programs” as opposed to “behavior day programs” that are a higher level of day program for consumers with more challenging behaviors. SDRC suggested claimant be placed in a BMOD as opposed to a “regular day program” or even a “tailored day programming” that has a maximum of 92 hours a month. SDRC proposed the highest rate available for BMOD, which has a 2:1 ratio (2 clients to 1 staff) even though the more common ratio is 3:1 (3 clients to 1 staff). SDRC’s goal was to have a “minimal impact to the level of service and work in good faith with the family in this transition.” When claimant was in his CIT day program there were no other clients present although there could have been another client there, so he was essentially receiving a 1:1 ratio (1 client to 1 staff) at his day program. At the last IPP meeting, SDRC was told that claimant wanted “supplemental staffing” for his BMOD.

16. Mr. Webb-Rex testified to claimant’s behaviors and transitions happening with his family. He noted claimant’s behavior reports referenced hand flapping and clapping, but he stated that for clients in general there is a “certain amount of hand flapping that is normal.” He understands claimant’s parents want to step back from their provider roles for claimant, which is part of the reason the fade out plan for 2:1 ratio (2 staff to 1 client) was added to claimant’s budget. He stated that “2:1 forever is not appropriate.” He added “it is rare for clients to have SLS 2:1 ratio support,” and those that do have “very intense” behaviors that cause property damage and frequent hospitalizations. He noted the regulations require the least restrictive supports.

17. On cross-examination, Mr. Webb-Rex stated he had never met or observed claimant as this was the job of the service coordinator, and SDRC does have

clients with 2:1 ratios for SLS. SDRC's proposed fade out plan for one year of SLS with a 2:1 ratio (2 staff to 1 client) for claimant with a quarterly review started at 100 percent (6 hours a day), then 75 percent (4 hours a day), then 50 percent (2 hours a day), then 25 percent (1 hour a day), and down to 0 hours a day. He felt this would not be restrictive, and SDRC offered to meet quarterly with the family and adjust as needed. He thought it was likely they would have had a fourth IPP meeting to discuss their differences, but that did not occur. When asked if he thought it was appropriate for parents of a 37-year-old to provide at least 6 hours of support a day, at least 3 days a week, he replied that families are not compelled to provide such care.

TESTIMONY OF CHESA BURKE

18. Chessa Burke has a bachelor's degree in neuroscience from Pitzer College and a master's degree in human behavior from National University. She is trained in applied behavior analysis (ABA) therapy. In January 2022, she began working at SDRC as an adult service coordinator for traditional services, and in July 2023, she transitioned to SDP services.

19. Ms. Burke attended the three SDP budget meetings with the family in August and September 2025. At the third meeting, SDRC and the family agreed to swap out ILS for SLS because the services were duplicative. She gave claimant the maximum numbers of hours allowable for SLS, which is 744 hours each month for 24/7 support, and then subtracted his In-Home Supportive Services (IHSS) hours and his BMOD day program hours (5 hours a day, 5 days a week), and she came to 353 hours a month for SLS. She was aware the parents were asking about fading out their support role. SDRC offered to fund the SLS hours in a fading plan for the next year, whereby the hours faded down from 6 to 4 to 2 to 1 hours, per day, over 4 quarters.

20. SDRC and the family also agreed to shift claimant from his day program at CIT to a BMOD that has a higher level of support and training for the staff. For the BMOD day program, she selected an hourly rate (service code 532) that most closely matched the prior CIT day program (service code 055). In fact, under service code 532, claimant will have a higher hourly rate than what he received under CIT. However, the family still wants supplemental staffing for the day program.

21. Ms. Burke testified to claimant's behavioral issues and testified her clients who had 2:1 ratio (2 staff to 1 client) usually have behaviors that cause injuries such that they need hospitalization or involvement of law enforcement. She was unaware of claimant having a history of behaviors that had led to his hospitalization or involvement of law enforcement. She also noted claimant's IPP from October 30, 2024, did not indicate his outbursts occurred more than once a week, and those outbursts did not require intervention. She remarked that four hours each week of funding for a behavioral analyst could be added for "safety considerations" (service code 612) to train the SLS staff or BMOD staff or work with the parents or other caregivers. Also, social recreation hours could also be added.

22. On cross-examination, Ms. Burke was asked questions about a Client Development Evaluation Report (CDER) she prepared on October 30, 2024. The report notes claimant has disruptive behavior that interferes with social participation almost every day; claimant has not caused injury but physical aggression occurs less than once a month; claimant has self-injurious behavior but with no injury; and claimant runs away or wanders, or attempts to do so, almost every day.

TESTIMONY OF MELISSA MELGAR

23. Melissa Melgar has a bachelor's degree in psychology and Spanish literature, and a master's degree in clinical psychology. She has been a board-certified behavioral analyst (BCBA) since 2013. She has worked at SDRC for eight and a half years. She has been a coordinator for behavioral services for the last six and a half years.

24. Ms. Melgar was consulted by Mr. Webb-Rex and Ms. Burke regarding claimant's request for supplemental staffing for his BMOD day program. Claimant's BMOD program in his budget provides for a staffing ratio of 2:1 (2 clients to 1 staff) under service code 532. Under BMOD, all staff are registered behavior technicians (RBTs), who are board-certified. SDRC has less than 50 clients, of its more than 40,000 clients, who are in a BMOD program. Claimant's SDP budget, dated October 14, 2025, also includes four hours a week for BCBA support.

25. Ms. Melgar reviewed the Consulting Progress Report by Kathryn Petersen, MA, BCBA, at Two Steps Forward, dated August 21, 2025, revised September 18, 2025, and said it "was not an operational report" because it "doesn't say how long you need to stare or stare at a person . . . whether doing it just once . . . counts as a behavior" and so forth. The definitions of low and high intensity were not accurate, and she did not know what was being tracked. The charts did not have frequency data so she could not tell the severity of the behaviors. Ms. Melgar remarked that even if claimant wanted to work on his twirling behavior, "it is actually not dangerous to himself or others."

26. In reviewing SDRC's Title 19 notes, Ms. Melgar stated, "The data hasn't been there to support the need for extensive behavior intervention" . . . and the

“BMOD program . . . was more of an accommodation for the family than evidenced by a behavioral assessment as to claimant’s needs.” She noted claimant “essentially had a 1:1 (in his CIT day program) and due to lack of data, it’s very rare to have supplemental services (service code 110) in an enhanced day program (BMOD with service code 532).”

27. In reviewing claimant’s support staff notes, Ms. Melgar stated claimant had the following numbers of incidents of aggression in 2025 that involved hazardous behaviors of clinching face, bumping into furniture, and clapping: five in November, five in October, one in September, two in August, three in July, and zero in June and May. She did not see any injuries occurred during these incidents and assessed that claimant’s aggression was not at a rate she would consider him needing additional staffing for his BMOD program.

Claimant’s Evidence

28. The factual findings are derived from documentary evidence submitted by claimant and the testimony of the following supporting witnesses: Rudy Pineda, Ani Kreckler, Kathryn Petersen, Debra Jorgensen, claimant’s mother, and claimant’s father.

29. Aside from jurisdictional documents, a position statement, and a written closing argument, claimant submitted the following documentary evidence: IPPs dated July 2025, October 30, 2024, November 7, 2023, October 4, 2023; IPP Addendums dated November 29, 2023 and July 26, 2023; CDER reports dated October 30, 2024, and January 4, 2023; a SLS Assessment by Modern Support Services (MSS); Behavior Reports and Revised Reports dated September 1, 2025, August 21, 2025, May 1, 2025, March 4, 2025, September 1, 2024, and June 9, 2023; Functional Behavior Assessment dated November 2022 with a letter; Behavior Consultation Referral dated March 2022

with April 2022 Additions; Functional Behavior Assessment by Molly Moell; Medi-Cal Waivers dated December 18, 2024, December 18, 2023, January 1, 2023, and December 20, 2022; Person Centered Plan for Years 1, 2, 4, and 5; Summary of SDP Budget Years by Debra Jorgensen; parent calendar of 2:1 ratio (2 staff to 1 client) support from August to October 2025; Modern Support Services Intake Packet dated March 26, 2025; SDP Spending Plans; SDP Budgets; Requests for Purchase of Service; Client I.D. Notes; resume of Kathryn Petersen; email correspondence with SDRC regarding services; emails between SDRC and Debra Jorgensen; DDS Directives for SDP; Department Budget Tool; SDRC rates effective January 2025; SDP Waiver Renewal Approval Letter and Application, 2021; DDS Directives for Rate Reform; Staff Notes from January to November 2025; and Staff Note dated December 10, 2025.

TESTIMONY OF RUDY PINEDA

30. Rudy Pineda has been employed at MSS since 2017, and he is one of its SLS directors. He has a bachelor's degree in psychology, and he is almost done with a bachelor's degree in nursing. He is also credentialed in crisis prevention intervention (CPI) and a CPI instructor for the last eight years. From 2013 to 2017, he worked as a direct support professional (DSP) at a day program. He then worked as an RBT.

31. Mr. Pineda indicated the goal of MSS is to fulfill a role to help clients have the "happiest life they can get." MSS has been a vendor of regional centers in Los Angeles and in Orange County for 26 years and provides SLS, ILS, coordinated family services, community placement, personal assistants, and behavioral SLS providers. MSS is not a vendor for SDRC. He oversees his SLS support coordinators, who oversee the DSPs who provide SLS services for MSS. There is a difference between a DSP who teaches things to individuals versus a caregiver who does things for individuals. DSPs are the SLS staff at MSS. SLS services include instruction with personal hygiene,

medical appointments, transportation, going to school with clients, job preparation, cooking, assuring clients have a set schedule, routine, and structure in life, and medication awareness training. SLS providers work in collaboration with BCBA agencies. MSS often conducts assessments for regional centers for which it collaborates, which is how MSS knows it is touching on every aspect of a claimant's life and making the right recommendations for their supports.

32. Mr. Pineda referred to an MSS assessment that he completed in August 2025 and which was revised in September 2025. Mr. Pineda spent the entire day with claimant and saw claimant's transition from the morning and afternoon, and to and from staff and his family. He spoke with all the staff. MSS recommended 898 hours a month of SLS versus 706 hours a month of SLS that is being requested at the hearing. The revision took place at the request of Ms. Burke at SDRC because normally SLS and day program hours do not coincide at the same time, but there are exceptions, as there are with claimant considering his goals. MSS assessed that claimant needs specialized staff with him at all times even if it is during his day program and even if there is a higher ratio already at the day program. Ms. Burke informed him that SDRC cannot do that, but SDRC could do a BMOD, and he agreed to a BMOD, so he revised the SLS hours from 898 to 706.

33. During the August 2025 assessment, Mr. Pineda and his colleague, Ani Krecker, went with claimant to a grocery store along with claimant's staff and mother. They could not find claimant in the store and found him on the other side of the store opening jars and slapping his hands and body very loudly, and people were watching, and claimant's skin was getting red from the slapping. Mr. Pineda became a second staff to assist, and Ms. Krecker redirected the public because it was chaotic. Claimant's mother had to pay for the items that were opened while he walked claimant outside.

They went to the car, but it took one and a half hours for claimant to de-escalate. They then went to claimant's day program. But, at the day program claimant "booked it" when he saw a Lego item that he wanted, and he grabbed the item but destroyed it. It took several persons to support claimant—Mr. Pineda and Ms. Kreckler took claimant outside, and his mother cleaned up the mess and reported it. They also went to claimant's art studio, which was connected to the day program, and another incident happened there where they had to provide "body blocking" for claimant.

34. Mr. Pineda referenced claimant's current schedule that includes 283 hours of IHSS for overnights. Claimant's 353 hours of SLS was calculated by starting at the maximum hours of 744 a month, subtract 283 hours of IHSS and also subtract day program hours, which comes to 353 hours for one SLS staff, and multiple that by 2 for 2 SLS staff, and you get a total of 706 hours for SLS. The overarching goal of SLS for MSS is "to help claimant successfully maintain independent living while supporting his personal growth, social engagement, and professional goals." They look at the person-centered approach as to what is important to claimant and also what others think is important for him. For Mr. Pineda, it is important for claimant to continue his art and continue showcasing his art at museums and shows. MSS requested 2:1 ratio (2 staff to 1 client) because there is a lot of coordinating that claimant needs when he does his art and presents it at museums, and it would be difficult for one staff to do all of this.

35. Mr. Pineda also discussed claimant's living situation. Claimant lives on his own in his own apartment. Mr. Pineda assessed that claimant needs 2:1 ratio (2 staff to 1 client) in his home, as well. The only reason Mr. Pineda agreed to not do a traditional day program was because of the 2:1 ratio (2 staff to 1 client) that he discussed with SDRC. Claimant's living situation requires support for safety awareness and risk assessment such as gauging stimulation in his home, whereby the kitchen island needs

to cleared so claimant does not swipe the items on it and hurts someone in the process. Claimant has a history of aggression and ongoing heightened displays of distress. Claimant has physical aggression towards himself and others; he paces back and forth and will run towards a wall so his body feels a pain sensation. There have been incidents in the car when claimant pulled the hair of his support staff who was driving, he would not let go, and the staff had to pull over and call claimant's father to come and get claimant to stop pulling the hair of the staff. There was another incident when claimant's finger got pinned in a door when a staff person was present, and his finger was severely injured. There was yet another incident when claimant was stung by a bee, but he was not able to communicate what occurred, and he ended up needing medical care in a hospital emergency department. Also, during Mr. Pineda's assessment, claimant ran into a wall because it was claimant's way to find a grounding technique for self-regulation. Claimant has two supports with him at all times, as his mother and father are often present to assist staff with preventing injuries and de-escalation. He believes there would be injuries if claimant's parents were not there to support staff. Claimant has never been hospitalized due to his aggression because staff and his parents have always been there for him.

36. Claimant also uses a letterboard to communicate where he taps letter by letter to communicate with others. The staff he is communicating with has to remember each letter, read out the letter and then state the word, and then make the sentences as to what claimant is trying to say. In essence, one staff member is typing the words maybe on a cell phone that claimant is trying to say and making those sentences. Also, claimant begins to prepare for bed around 9:00 p.m. and goes to sleep around 9:30 p.m. or 10:00 p.m., or so, but he has sleep disturbances that may arise, as well.

37. At the time of the assessment, Mr. Pineda determined that claimant's mother and father provide a lot of support for claimant. Claimant told him that he wants to fade out his parents as his support, because he wants a relationship with them, but he no longer wants them as his supports. Also, claimant lives on his own and his parents are not living with him at his apartment. His parents are retired, getting older, and not as physically strong and can get hurt during incidents. Claimant is 37 years old now.

38. Mr. Pineda strongly believes claimant requires 706 hours a month of SLS to be comprised of 2 SLS staff, and this is the best recommendation for claimant to reach his goals, keep him safe, and handle his behavioral challenges. He stated:

All we're asking for is for actual funding to replace the support the parents are actually doing. I cannot just tell you that [claimant] will be ready to reduce hours in six months . . . he is a human being. It's not fair for him to limit those hours of support. [Claimant] is entitled to them and he needs them. I honestly feel that [claimant] has been underserved because his family should not be this involved . . . and they have been since the beginning. In a year, two years, three years, then I'd be the one initiating, hey guys, I think we can work on a fade out plan now . . . when [claimant] is ready . . . this is a big change for [claimant] to do . . . his family has been so involved, and the transition . . . it could be traumatic.

TESTIMONY OF ANI KRECKER

39. Ani Krecker has a bachelor's degree in psychology. She has worked at MSS for 10 years. From May 2021 to August 2025, she was the director of behavioral services. In August 2025, she became the clinical director and its certified crisis intervention instructor. Her tasks include consultations, program plans, assessments, workshops, and crisis intervention. She oversees therapeutic services for clients with intellectual developmental disability. She has also been in private practice as a licensed psychotherapist since May 2025.

40. Ms. Krecker is familiar with claimant because she was involved with claimant's MSS assessment for SLS services. She completed his safety awareness and risk assessment. She prepared for the assessment and noted that claimant has autism, verbal issues, and a history of trauma involving an incident with another provider when he was injured. During the grocery store outing, claimant grabbed, opened, and destroyed some baked goods, and she redirected him outside the store while his mother and other support handled the mess and paid for the items. Claimant is 6 feet tall and it required several support staff to handle the incident. During the tour of his apartment, claimant became anxious, started to pace, and knocked items off the counter. Claimant also forcefully, but not maliciously, grabbed a chair and pushed it onto her when he was trying to see a video. Claimant also slapped her on her back when she believed he was trying to signal to her that he wanted to "move on." After many of these incidents, claimant would try to "circle back" to the persons with whom he had incidents because he had some sense of feeling badly and some remorse.

41. Ms. Krecker assessed that claimant has a 'tough time with his awareness and [engages in] kicking, slapping, and roughness.' He is trying to communicate something and not realizing how close he is standing to someone and not aware of his

environment and surroundings. Her “biggest conclusion” was that claimant “requires 2:1 support whether it’s for safety or risks.” Claimant’s parents have been second staff to claimant “the majority of the time.” They have stepped in for additional support so the first support staff can navigate the day-to-day needs of claimant. She is not sure, but believes the parents live about 20 minutes away from claimant. She believes claimant has not had any hospitalizations or involvement with law enforcement because “he has the infrastructure in place already from his parents being the second support [and] it would not surprise [her] if those emergencies would arise without those supports in place.” He needs 24-hour supervision because “it is very difficult to predict when he might require assistance . . . he cannot advocate or communicate for himself without the support of others.”

42. Ms. Kreckler recommended 706 hours of SLS each month because MSS’s goal was 898 SLS hours, but they subtracted the day program hours and IHSS hours and came to 706 SLS hours for 2:1 (2 staff to 1 client) ratio. The second support staff is involved “every step of the way.” She stated:

I really feel the 2:1 is necessary and intended to be a very collaborative process where both people are working together to pay attention to [claimant] to maximize safety in the environment and enhance his skills to do things as independently as possible. It’s always a goal where someone isn’t receiving the highest level of support . . . but it takes some time . . . in her experience, it takes a few years . . . change and growth takes time and years, even for those without intellectual disabilities. It needs to make sense

considering the person's safety and health, and the safety and health of others involved, as well.

TESTIMONY OF KATHRYN PETERSEN

43. Kathryn Petersen has a bachelor's degree in biochemistry and psychology from University of San Diego and a master's degree in child and family psychology from University of Denver. In 2013, she became a BCBA and began providing services as a behavioral analyst. She worked at Cortica Behavioral Health (Cortica) for five years as a senior site manager. Two years ago, she started her own full-time behavioral consulting agency, Two Steps Forward, which is a vendor for SDRC. She has two SDRC clients in the traditional model and four clients in the SDP model. She has worked with a lot of regional clients since 2012.

44. Ms. Petersen started working with claimant in 2022. She provides behavioral support and consultation with his caregivers and DSPs. She has done behavioral assessments and created behavioral plans with a goal of keeping claimant and others safe. She conducted training of his support staff to implement the plans. It is her ethical duty to get her clients' input to make sure the goals are things they want to work on. It is not always possible depending on the client, but claimant has always been around during her conversations with his support staff and family. She stated, "[Claimant] has always been aware as to what was being said about him. This is important for dignity and treating people as humans."

45. Lately, Ms. Petersen has seen claimant about two to three hours each week. She collaborates with his DSPs and family and observes how they are doing things that align with the behavioral plan. She is looking for things that decrease the likelihood of behavioral issues and reactions when behaviors do occur. She gathers

data through session notes and compiles them into "Base Camp" notes. The data she pulls for her behavioral reports is from the Base Camp notes. If her program was an ABA program, the data collection would be different and include frequency, duration, et cetera, on relevant behavior. This is not the level of data collection that is done at Two Steps Forward as she does not have that level of staffing.

46. Ms. Petersen referenced a functional behavioral assessment for claimant that she completed on November 4, 2022. She discussed "repetitive twirling" and the operational definition she wrote included twirling of household items and clothing and not responding to directives to swap or relinquish the item, which occurs in low and high intensity levels. This definition has been in her reports "since the very beginning." She is "trying to honor that [claimant] is asking for help with his twirling behavior." He sometimes does this as a regulatory strategy, but he gets stuck in motor loops and cannot stop himself. He wants support to help get out of the motor loops. This conduct can lead to more hazardous escalations.

47. In her functional behavioral assessment, Ms. Petersen also discussed claimant's "hazardous behavior" that includes slapping a table repetitively, clapping hands together, staring, pushing hands together, pushing and hitting others on a body part with an open or closed hand, hitting himself on any part of body with an open or closed fist, grabbing and pulling others on their arms or wrist, and property destruction, all of which occur at low and intensity levels. Claimant has swiped his paintings off the walls. Some of them are very large with dimensions of about five by five feet. He will "yank them off the wall." She wrote the definitions for staff to understand and recognize when these incidents happen, and the definitions are for staff who are not trained as behavioral technicians. Ms. Petersen stated, "I'm doing things that are actually applicable in claimant's life. I'm not submitting this for

publication.” She remarked that a few months ago Ms. Burke criticized the definitions in her report. However, these are same definitions that have been in her reports all these years, and she is not sure if this is the first time SDRC has actually read her reports. She thinks SDRC’s criticism happened because claimant’s parents requested 2:1 (2 staff to 1 client) support. She thinks maybe only Ms. Burke has actually met claimant, and no other SDRC staff have met him. She also noted that she was asked by SDRC to revise some parts of her behavioral reports, but she felt ethically that she owed it to claimant to continue to write her reports as she has been doing, in order to continue to address his needs.

48. Ms. Petersen discussed the twirling graphs she included in her reports. She created the graphs by looking at the Base Camp notes and tried to figure out the most effective way to determine claimant’s needs at different levels of intensity. She noted, in a 10-day period, he had six days of low intensity twirling and four days of high intensity twirling. His high intensity twirling is what led to safety concerns. She collected data in a graph format, knowing the DSPs are not trained to collect data, and felt this was the best way to show them the data and how they can support claimant.

49. Ms. Petersen also reported on the hazardous behavior of claimant. She has seen scabs on his hands that were caused by wounds having to do with his fingers. She explained claimant has “apraxia,” which is a motor loop of him getting stuck doing something, and he cannot stop even when his brain tells his body to stop, his body cannot stop doing it. His apraxia is related to autism and is a motor and neurological condition. As of her last report, the graph for hazardous behavior did not show improvement in high intensity although there was some improvement in low intensity. She was never told by SDRC that her method of reporting was not good. She is confident in her data collection and has put a lot of thought into it. She has known

and worked with claimant for several years. When asked who she meets with when she sees claimant's support staff, she very quickly replied, "Jesse, JamieLee, Tytiana, Monica, and Jennifer."

50. Ms. Petersen believes at times claimant needs 2:1 ratio (2 staff to 1 client) of support. The issue is that while he does not engage in high intensity behaviors 24/7, it is not possible to predict when he will have high intensity behaviors. She stated, "You just can't tell him now's the time to do a high intensity conduct. You need a second person hands on because the risk is high at certain times. You can't just call for help and wait." She does not think claimant would be safe in the community without a second support staff. She stated, "It could be dangerous if you're out in the community and [claimant] is engaging in aggression or destructive behavior, a stranger could get hurt, he or his staff could get hurt." While she is not aware of any specific hospitalizations or need for law enforcement, she noted an incident, prior to her working with claimant, when claimant lost his fingertip in an incident involving a door. She was also aware of others being hurt, but not needing hospitalization, due to claimant's behaviors.

TESTIMONY OF DEBRA JORGENSEN

51. Debra Jorgensen has been the director of training and innovation at Guidelight Group (Guidelight) since 2019. She is also an independent facilitator (IF). She has trained more than 300 IFs in the State. She creates IF training and content for advanced seminars. A few years ago, SDRC provided scholarships for IFs to be trained at Guidelight, and she has since trained about 37 local IFs through those scholarships. She has worked with many consumers over the years, and she feels she is competent in the field for IFs. She currently has clients who are associated with five regional centers. In the past, she had clients across eight regional centers. She also mentors IFs

across the whole State. She formerly was an attorney at Disability Rights California for about 13 years.

52. Ms. Jorgensen began working with claimant in 2021. She created his person-centered plans for the last five years. In his 2021 plan, claimant was first transitioning to SDP. He mainly used a letterboard to communicate and relied on a person interpreter for his letterboard. They had to slow down the process of creating the plan to ensure claimant's voice was present when they worked with his circle of support. His plan took a few months rather than a couple weeks to create. She noted that SDP budgets consist of the amount of money the regional center would spend on a participant in traditional services. The budget is prepared by the regional center, discussed with the client, and agreement needs to be reached with the IPP team and client. The budget is taken into SDP with the spending plan, which the participant has control over to meet their needs outside the traditional system.

53. In claimant's person-centered plan for Year 4, completed in September 2024, the category of "What's Not Working" lists "need to find a new co-coordinator to help mother" and "need to get fully staffed again" because claimant was relying on his parents and needed to get more staff to help him. Also listed was, "wants to express himself more about his dreams" because he dreams about things and paints them.

54. In claimant's person-centered plan for Year 5, completed in August 2025, the category of "What's Not Working" reports claimant wants to be out in the community more. His day program was Ohana Days, and he had his own art studio on the same property. This all required more driving, and he needed to bring his own staff as extra support, or he needed to pay more for the group there to hire and train someone to work with him. Ms. Jorgensen stated:

What was clear, was he needed more than just one support . . . this is something we had talked about and known for some time – when [claimant] is out and about in the world – his ability to regulate, see, processing a lot, and anything that’s overstimulating – the job of one staff is that he’s regulated and he has a communication partner that’s right there with the letter board and different things to help him make choices, the other part of it is that [claimant] moves quick, he’s big, and very strong – another person is needed to make sure the environment is something he can process and work through and doesn’t get distracted . . . his brain and eyes need to tell his hands where to go . . . and need the other staff that’s ready for the moment he gets up and he’s moving and swiping, etc.

We knew and it became very clear that there needed to be a second person/second staff. His parents have been and had been doing that second staff role for a lot of hours and were on call all the time. That leads to [claimant] needing funding at 2:1 staffing levels to allow him to fully hire and run a support team. Other big part is his parents are retired, aging, and emotionally tired . . . they need to roll back their natural support they’ve been providing.

55. Ms. Jorgensen noted SDRC offered a second staff on a fade plan, but this was a “small portion” of what claimant asked for, which was 2:1 ratio (2 staff to 1 client) and ongoing. She noted the problem with the fade plan is that “it assumes that

something will change.” Also, the fade plan at the start is not adequate in providing six hours a day, as there is “no other place to get funding or support staff . . . there are no generic resources that provide support staff and there is no company that provides free staff, and for the parents to step back . . . there needs to be funding to support the 2:1 need.”

56. Ms. Jorgensen testified in discussions for budget Year 5, which is from November 1, 2025, to October 31, 2026, she, the family, and SDRC had discussions about needing to find the highest rate day program and adding supplemental staff for 2:1 ratio (2 staff to 1 client), and they came up with the BMOD program (532 service code) and supplemental staffing (110 service code). Ms. Burke shared she would need to get approval for the 110 service code.

57. In response to the question of whether a BMOD program would meet claimant’s needs under traditional services, Ms. Jorgensen stated:

My understanding, is that it’s either 1:2 or 1:3 (1 staff to 2 to 3 clients), but [claimant] could never be in an environment where he didn’t have dedicated staff and 2 preferably . . . as I described before where 1 staff is working with [claimant] and the other staff is working with the environment. If he was in a program where he didn’t have his own staff, it wouldn’t work – it would fail.

58. In response to the question about claimant’s SLS needs and what was offered by SDRC, Ms. Jorgensen stated:

896 service code – this is the SLS that is needed but he needs 2:1 and this only provides half of what he needs at

1:1. An offer was to provide a limited SLS support that would fade over time This didn't make sense to us as to why it would fade out because [claimant's] parents need to fade out for good. [Claimant] really wants to be supported by his peers and not his parents. That's part of his independence and growth as a grown man. This is his need to be supported by an SLS agency moving forward. This limited funding with a fade out schedule is not adequate, and it doesn't equal the amount for a second staff for the entire time.

59. Regarding SLS services, Ms. Jorgensen stated the previous SLS provider for claimant was Lifeworks, but it terminated services when they found out he was going on SDP, which started on January 1, 2022. Claimant's SLS services under Lifeworks had been underfunded for many years, and now in Year 5 there was an even greater need because the parents were wanting to fade out. The need for 2:1 ratio (2 staff to 1 client) was always there, it was "just the parents having been doing it for free" and claimant needs and wants to move on and no longer wants to be supported by his parents. Claimant lives alone and values his independence. She connected claimant with MSS, who is based in Los Angeles and very reputable, and asked MSS to assess claimant and take a look at his true need. There has been underfunding for SLS for claimant and his needs are SLS with 2:1 ratio (2 staff to 1 client).

60. Ms. Jorgensen noted there were three budget meetings in September and October 2025 for Year 5, and at the last budget meeting they were told the "decision maker" was not present to make the decisions. She, service providers, and

the family had worked very hard to get to this point. They were disheartened. The NOA was issued thereafter.

61. On cross-examination, Ms. Jorgensen was asked if she understood that funding for services such as a letterboard must be evidence based. Ms. Jorgensen responded that one of the only ways that claimant communicates is through the use of a letterboard that he also used in the traditional budget. She stated:

Are you questioning whether he should use a letterboard?
I'm confused . . . it's one of the only ways [claimant] communicates. It's fundamental to him being a human being. He has to be able to communicate. I'm sure his parents can speak to him being able to communicate. It's necessary and groundbreaking as far as who he is. If you're trying to suggest that he shouldn't be using a letterboard, that doesn't make sense to me.

62. Ms. Jorgensen was asked about claimant's previous day program, CIT, and the budget for that program. She replied that claimant started going to Ohana Days towards the end of 2024, and it helped him with his different skills. The discussions with SDRC included trying to build the budget up. They concluded a BMOD day program and supplemental staff could take the place of what had been budgeted in the past, and this was because:

[Claimant] needed supplemental staff at a 2:1 ratio (2 staff to 1 client) 24/7, but he was using 1:1 ratio (1 staff to 1 client) even though he needed 2:1 (2 staff to 1 client)

because the parents have been providing that largely unpaid for all of these years in SDP.

63. Finally, Ms. Jorgensen was asked about regional centers needing to provide services in the least restrictive setting. She replied that in SDP, "every service you pay for has to be compliant with the HCBS [Home and Community-Based Services] waiver . . . which is not just about least restrictive, [it] talks about inclusion in the community and getting people into regular settings where people without disabilities go. As having as many common settings as possible. It's individualized and based on what the person needs and what they want."

TESTIMONY OF CLAIMANT'S MOTHER

64. Claimant's mother is an author and speaker, and caregiver for claimant. Her first experience with autism was after she graduated from University of California, Irvine, she worked at Fairview Hospital in Costa Mesa around the time the Lanterman Act was enacted. She loved her job. She then became a case manager at Orange County Regional Center for about six months until she left that position because she moved overseas. She gave birth to claimant when she lived in France and later in England and then moved back to the United States. When claimant was born, no one was giving her hope, and everyone said claimant would not become anything. She wrote her first book about autism and has since written a total of five books on autism.

65. Claimant's mother admires claimant because he has worked very hard to overcome a lot of challenges with autism. He also had anxiety from things that happened to him and he has had physical issues. He is very empathetic and a good friend. Claimant wrote for the school paper. In 2012, he was asked to be a youth advisor on the California Employment Consortium for Youth regarding employment

for young adults with autism. He was a youth representative for the Autism Research Institute. He also attended some community college.

66. Claimant discovered he could paint. They discovered he has synesthesia, which is when one part of your brain is stimulated, but it comes out in another aspect. When claimant plays music and has dreams, he translates those things into emotions and can paint the emotions in colors. He had dreams and used his letterboard for his support to spell out his dreams and write them down. He said he had a dream about having an art show. She told him to start painting. Eventually he became serious about painting and started painting for others. She saw an art studio downtown with a co-op. Claimant applied and was offered a spot, and he became a member of that art community for a few years. Then he applied and became a part of an art community at Liberty Station. He also started giving talks to the community on disability awareness, doing art shows, and speaking events.

67. Claimant has used different communication supports. He used to use a Bluetooth device to communicate with a computer, which he used to take tests in high school. At the time, iPads did not yet exist. He now mostly uses letterboards and choice boards because he lost the tip of his finger in 2019 when a caregiver let a door go, and the door snapped off part of claimant's finger.

68. Claimant lives in affordable housing, not far from claimant's parents' home. He heard about having roommates when he was in community college. Claimant's mother put his name down for new apartment buildings being built because she learned that some units needed to be available for people with disabilities. He finally got an apartment that is approximately eight minutes from her house. He has lived outside her home for 11 years. He has lived in his current apartment for two years.

69. Claimant's previous SLS agency was Lifeworks. This agency also supported claimant before he had SLS services. They were really happy with Lifeworks, but Lifeworks fired claimant before they were ready to go into SDP. It was around the time of the COVID pandemic, and everyone was losing staffing. The program coordinator at Lifeworks was trying to fill-in for those that quit, and then the program coordinator also quit. Claimant has a contract with MSS to help find DSP providers for SLS, but they are not yet providing services. Claimant and the family hope to use the DSP providers of MSS when they move forward with SDRC.

70. Claimant was excited to do a day program with Able Arts, which is based in Long Beach but was going to start in San Diego. Claimant was on their wait list. A previous Able Arts director indicated he could attend part time for one month before being able to attend full time. But a new director came on board at Able Arts and asked claimant to attend part time for six months. This was not going to work for claimant and did not make sense. Claimant then attended another day program called Ohana Days in Oceanside from March 2025 to September 2025 in its main program, and until October 2025 in its small program. Ohana Days had extra space, and claimant asked if he could rent it for his art studio with a grant from the State, and they agreed. Ohana Days was a pilot program and ultimately did not get licensing, and claimant lost his day program and art studio. He is looking for another art studio space. He usually had two support staff with him when he was at his art studios. He has become a nationally recognized artist and has given an art class through the Guggenheim for All Program and done shows at the Oceanside Museum of Art and other curated shows in San Diego.

71. Claimant's mother testified to parent involvement in claimant's daily life. There are hours when there is no second support staff person for claimant, so she and

her husband provide that support. These hours are Saturday from 9:00 a.m. to 8:00 p.m., Sunday from 9:00 a.m. to 4:00 p.m., and Monday from 12:30 p.m. to 8:00 p.m. Also, there are other hours when one parent is always with claimant, and that is when he wakes up in his apartment and a parent arrives and stays with him until support staff arrive; and when claimant has an appointment or social activities, then one parent needs to go along with the DSP support staff. She and her husband are providing the support that a second staff person would have provided if there was a second staff person. They also sometimes provide training for the new support staff. She stated:

I am 69 years old . . . I'm tired. I don't have the muscle I used to have. My husband is 72. [Claimant] is getting stronger. He's 37 . . . also he doesn't want his mom wiping his butt anymore [and] I can't do any body blocking when [claimant] sees something across the street.

72. Claimant's mother noted that MSS found someone who was willing to be a DSP staff and do part-time coordination, but it took so long to get authorization from SDRC that person got another job. Her daughter has lived in Seattle with her partner for 10 years where they have a home. The daughter is established in Seattle and is not returning to San Diego. There is no other family who can help. Claimant's mother has two sisters in Los Angeles, but they cannot help because of their own problems; she has two sisters on the East Coast who cannot help; and her brother on the East Coast passed away. Claimant's mother stated, "It makes sense for me to put something in place now for when I'm no longer alive . . . I can no longer be physically responsible and caregiving for my son . . . he has to be able to rely on other people for finding the staff which is what the SLS agency does . . . I just can't do it anymore."

73. Claimant's mother discussed claimant's painting and the systems in place. There are drawers labeled for his support persons, as he cannot always open the tubes of paint. He cannot remove the paintings off the wall and place them on easels, or turn around large canvases, or tear and cut the tape used when painting. He directs staff to turn the easel by using choice boards that indicate the time to turn the easel and the thickness of the tape to cut, and which paint brushes. He needs help when he opens the drawers for brushes because he will otherwise fiddle and get lost. He also needs reminders to use the restroom when he is painting.

74. Claimant's mother testified about injuries and incidents in the past. Support staff have been injured by claimant, but not to the point where they needed hospitalization. Claimant has behaviors in the car, and this year was hard because they had to put plastic shields in the cars he rides in. Jamielynn, a support staff, was driving claimant to an appointment when he pulled her hair so hard on the freeway that she did not know what to do, and she called the parents for help. Her husband had to go and help. It happened again when Jamielynn was driving claimant to a doctor appointment, and he pulled her hair and would not let go. She knows he can get through the plastic shields, so they cannot take him on the freeway when there is traffic because of what he might do. He sometimes grabs their glasses off their faces, pulls their shoulders to push them away, and pulls their necklaces off their necks. He will twirl with a towel or apron and whip it around and knock everything off the tables and hit others with it. He sometimes gets "bare spots on his fingers" when he does a lot of stemming. She once brought him into the jacuzzi, but he refused to get out, and she had to call her husband to leave work and come to help her get claimant out of the jacuzzi. Claimant sometimes slaps his stomach a lot, and she took him to get an x-ray and it turned out he was terribly constipated. He used to surf in Oceanside, but it was too much with one support person, and she and her husband could not help

getting him on the surfboard. There have been situations with police and security guards. At Penn Station in New York City claimant's eyes got small, and he started making hand movements, and police officers had to help her get his medicine out of his backpack and wait for him to calm down. At stores in San Diego, security guards and friendly shoppers have approached her and asked if they were okay and if she needed help.

75. Claimant's mother has also taken care of "the whole administrative part" for claimant. She had to find vendors and get them through the system, arrange schedules, help to schedule staff, handle medical stuff, etc. She prepared a calendar that shows the daily support she and her husband provide to claimant. She filed the appeal because she does not understand why SDRC thinks fading SLS hours and not having supplemental staffing at his day program is appropriate. She stated:

They were offering to pay for some hours . . . fading hours. But I don't understand, as parents who are getting older, why is it fading down? Does this mean that my husband and I are finding the fountain of youth? This doesn't make sense to me and there was no explanation. I love regional center and all the supports and services over the years, but I feel like there's been miscommunication as to why we need these hours. There just needs to be 2 people . . . it's just not possible.

TESTIMONY OF CLAIMANT'S FATHER

76. Claimant's father worked as an architect and interior designer and retired on April 1, 2025. He is extremely proud of claimant especially when they realized

claimant's artistic talent. He and claimant's mother are claimant's conservators. He understands his legal rights as a conservator, but he also understands they are there to assist claimant in the decisions he makes as to what he wants to do with his life. However, now that he and claimant's mother are "entering this stage of our parent lives" they really do not have other family to lean on who can look after claimant when they are gone.

77. Claimant's father expressed his concerns regarding the need for more support hours. He and claimant's mother have provided support for claimant. There have also been times when new support persons needed training, and claimant's father and mother helped with the training. There have been times when claimant will not go to sleep or stay awake until 2:00 a.m. or 3:00 a.m. or have toilet issues at night where he will need assistance with his nighttime diapers and getting to the bathroom, so he can go back to sleep. Claimant's father has gone to help as a second support and stated, "I'm entrusting them with my son's life and want to make sure they are okay."

LEGAL CONCLUSIONS

Purpose of the Lanterman Act

1. The purpose of the Lanterman Developmental Disabilities Act (Lanterman Act) is to provide a "pattern of facilities and services . . . sufficiently complete to meet the needs of each person with developmental disabilities, regardless of age or degree of handicap, and at each stage of life." (Welf. & Inst. Code § 4501; *Association of Retarded Citizens v. Department of Developmental Services* (1985) 38 Cal.3d 384, 388.)

Burden and Standard of Proof

2. Each party asserting a claim or defense has the burden of proof for establishing the facts essential to that specific claim or defense. (Evid. Code, §§ 110, 115, 500; *McCoy v. Bd. of Retirement* (1986) 183 Cal.App.3d 1044, 1051, footnote 5.) In this case, claimant bears the burden to prove that SDRC should fund the services that he seeks.

3. The standard by which each party must prove those matters is the “preponderance of the evidence” standard. (Evid. Code, § 115.)

4. A preponderance of the evidence means that the evidence on one side outweighs or is more than the evidence on the other side, not necessarily in number of witnesses or quantity, but in its persuasive effect on those to whom it is addressed. It is “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.)

The Lanterman Act, DDS, and Regional Centers

5. The Lanterman Act is found at Welfare and Institutions Code section 4500 et seq.

6. Welfare and Institutions Code section 4501 sets forth the State’s responsibility and duties.

7. Welfare and Institutions Code section 4502, subdivision (b)(1), states that consumers have a “right to treatment and habilitation services and supports in the least restrictive environment.”

8. Welfare and Institutions Code section 4512, subdivision (b), states:

“Services and supports for persons with developmental disabilities” means 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 an independent, productive, and normal life.

9. DDS is the State agency responsible for carrying out the laws related to the care, custody and treatment of individuals with developmental disabilities under the Lanterman Act. (Welf. & Inst. Code, § 4416.) To comply with its statutory mandate, DDS contracts with private non-profit community agencies, known as “regional centers,” to provide the developmentally disabled with “access to the services and supports best suited to them throughout their lifetime.” (Welf. & Inst. Code, § 4620.)

10. A regional center’s responsibilities to its consumers are set forth in Welfare and Institutions Code sections 4640-4659.2.

11. Welfare and Institutions Code section 4646, subdivision (a), provides the intent of the Legislature for the IPP and services and supports be “centered on the individual and the family of the individual” . . . and “takes into account the needs and preferences of the individual and the family” . . . and promotes “community integration, independent, productive, and normal lives, and stable and healthy environments.”

12. Welfare and Institutions Code section 4646, subdivisions (b) and (d), state the IPP is developed through a process of individualized needs determination that shall involve the consumer and the consumer's parents, legal guardian or conservator, or authorized representative; and the IPP shall be "prepared jointly by the planning team."

13. Welfare and Institutions Code section 4646.4 requires regional centers to consider generic resources and the family's responsibility for providing services and supports when considering the purchase of regional center supports and services for its consumers.

14. Welfare and Institutions Code section 4648 requires regional centers be fiscally responsible and purchase services or supports through vendorization or contracting. Subdivision (f) provides that "consumers are eligible to receive supplemental services including, but not limited to, additional staffing" and "necessary additional staffing that is not specifically included in the rates paid to the service provider, may be purchased by the regional center" . . . "and the individual's planning team determines the additional services are consistent with the . . . IPP" and "additional staff should be periodically reviewed by the planning team"

15. Welfare & Institutions Code section 4648, subdivision (a)(17), provides in part: "regional centers shall not purchase experimental treatments, therapeutic services, or devices that have not been clinically determined or scientifically proven to be effective or safe or for which risks and complications are unknown."

16. Welfare and Institutions Code section 4686.2, subdivision (d)(3) defines "evidence-based practice" as follows:

. . . a decision making process that integrates the best available scientifically rigorous research, clinical expertise, and individual's characteristics. Evidence-based practice is an approach to treatment rather than a specific treatment. Evidence-based practice promotes the collection, interpretation, integration, and continuous evaluation of valid, important, and applicable individual- or family-reported, clinically-observed, and research-supported evidence. The best available evidence, matched to consumer circumstances and preferences, is applied to ensure the quality of clinical judgments and facilitates the most cost-effective care.

17. Welfare and Institutions Code section 4685.8 requires DDS to implement a statewide SDP which shall be available to all regional centers. Subdivisions (c)(6) and (c)(7), respectively, define "Self-determination" and "Spending Plan." Subdivision (d) makes participation in the SDP voluntary. Subdivision (d)(3)(C) mandates that the SDP "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 SDP". Subdivision (j) provides a person-centered planning process that shall be used to develop the IPP. Subdivision (k) authorizes an SDP participant to "implement their IPP, including choosing and purchasing the services and supports" that are "necessary to implement the plan" and a "regional center shall not prohibit the purchase of any service or support that is otherwise allowable." Subdivision (r)(5) requires regional centers, "in addition to annual certification, [to] conduct an additional review of all final individual budgets" Subdivision (r)(6) requires the "spending plan to verify that goods and services eligible for federal financial participation are not used to fund

goods or services available through generic agencies.” Subdivision (y)(3)(D) makes SDP participants accountable for the use of public dollars.

18. Welfare and Institutions Code section 4689 establishes the Legislature’s priority of ensuring adults with developmental disabilities have meaningful opportunities to live in homes they own or lease with support available as often and for as long as it is needed when this is an IPP objective.

Evaluation and Disposition

19. In this case, claimant is requesting SLS hours with a 2:1 ratio (2 staff to 1 client), totaling 706 hours a month, which would be used to fund two monthly SLS support staff through his SDP budget. He previously received ILS and SLS hours, but with recent DDS rate reform, receiving both ILS and SLS is duplicative. Hence, it was agreed in claimant’s Year 5 SDP budget that ILS would be eliminated, and SLS would be increased. The disagreement between the parties is the number of hours and staffing ratio to be provided to claimant for SLS. SDRC argues that claimant receives hours for IHSS and his day program, among other monthly hours, and he does not need a 2:1 ratio (2 staff to 1 client) for SLS. SDRC also argues there is no need for a 2:1 ratio (2 staff to 1 client) because claimant has no history of hospitalizations or law enforcement involvement that resulted from his behavior. However, despite this argument, SDRC included in the SDP budget a fade out plan for SLS hours wherein SDRC will fund SLS 2:1 ratio (2 staff to 1 client) over the next 12 months at 6 hours a day for one quarter, then at 4 hours a day for the next quarter, then at 2 hours a day for the next quarter, then at 1 hour a day for one quarter, and ending at 0 hours a day. Thereafter, claimant would presumably have SLS at a 1:1 ratio (1 staff to 1 client). SDRC argued SLS support at a 2:1 ratio (2 staff to 1 client) in a fade out plan would suffice to meet the needs of claimant during a transitional period of his senior parents fading

out their support for him. SDRC further argues that SLS at a 2:1 ratio (2 staff to 1 client) is a support that is too restrictive. Claimant argues the SLS fade out plan does not meet the needs of claimant, as he has been receiving support at a 2:1 ratio (2 staff to 1 client) for his whole life, as his parents have been his second support, and his continued need for that level of support has not and will not change, and he has had no incidents of hospitalization or law enforcement involvement because he has had support at a 2:1 ratio (2 clients to 1 staff). As such, claimant requests SLS 2:1 ratio (2 staff to 1 client) without a fade out plan, and ongoing, as needed.

20. Claimant is also requesting supplemental staffing for his BMOD day program, wherein he would be funded at a 2:1 ratio (2 staff to 1 client) for his day program. He was previously at a CIT day program with a 1:2 ratio (1 staff to 2 clients), but it happened to be provided at a 1:1 ratio (1 staff to 1 client) because claimant was the only client attending his CIT day program, which was happenstance. Claimant argues that he actually had a 2:1 support ratio at his day program because, again, his parents have been his second support during his day programming over the many years. In the recent day program change in his Year 5 SDP budget, SDRC selected BMOD for claimant's day program to achieve the highest amount of funding to reflect what claimant had been receiving at his CIT day program. However, claimant argues BMOD is permitted to be funded at a 1:2 ratio (1 staff to 2 clients) and a 1:3 ratio (1 staff to 3 clients), and not a 2:1 ratio (2 staff to 1 client), and claimant requires and has always received day program support at a 2:1 ratio (2 staff to 1 client). Hence, claimant requests supplemental staffing for his BMOD day program in order to achieve a 2:1 ratio (2 staff to 1 client), as this reflects what he has been receiving all of these years. SDRC again argues that supplemental staffing for claimant's BMOD day program, which would result in a 2:1 ratio (2 staff to 1 client), is too restrictive. Claimant and his family disagree.

21. The Legislature was abundantly clear in its priorities and objectives for regional centers is to fund supports that allow consumers to achieve independent, productive, and normal lives; to ensure adults with developmental disabilities have opportunities to live on their own and in homes they lease with support “as often and for as long as needed”; and to provide supports best suited to them throughout their lifetime.” (Welf. & Inst. Code, §§ 4112, subd. (b), 4620, 4689.).

22. In addition, the Legislature set forth that IPP development shall involve the consumer and the consumer’s parents/conservator and be jointly prepared with the regional center planning team; that regional centers shall consider the family’s responsibilities in providing services and supports; and that consumers have the right to the least restrictive environment. (Welf. & Inst. Code, §§ 4502, subd. (b)(1), 4646.4, 4646, subds. (b) and (d).)

23. Here, claimant provided sufficient and credible evidence that his requests for 2:1 SLS hours totaling 706 hours a month and supplemental staffing for his BMOD day program, are necessary supports, as they achieve the goals set forth by the Legislature, which is for him to continue to achieve an independent, productive, and normal life, to continue to live on his own in his own apartment, to continue creating his paintings, and doing art showcases and talks, to allow for his senior parents to appropriately fade out the support they have been giving him for his entire life, and to allow for him to continue to live the least restrictive and independent life he can live.

24. The evidence supporting this outcome was substantial and demonstrated by the testimony of claimant’s witnesses. Mr. Pineda and Ms. Krecker from MSS, an SLS provider, gave detailed testimony about their assessment of claimant’s need for SLS totaling 706 hours a month. They conducted an in-depth assessment of claimant that included their in-person observation of claimant for an entire day of his normal

schedule at his apartment, day program, art studio, and a grocery store. Mr. Pineda and Ms. Kreckler themselves observed claimant being supported by a DSP staff person along with his mother, which is equivalent of 2:1 ratio (2 staff to 1 client). They noted this is the amount of support that claimant has essentially always received and needed. They noted claimant indeed needs a 2:1 ratio of support, as they witnessed him destroy baked items at the grocery store requiring two supports (Ms. Kreckler and Mr. Pineda) to bring him outside and de-escalate him in the car that took one and a half hour, and two other supports (a DSP support person and claimant's mother) to handle and clean up the destroyed items and pay for them). They also witnessed another incident at claimant's art studio where he jetted towards a Lego item that he wanted but was not his, and he destroyed the Lego item. Again, one or two supports had to manage him while the other support cleaned up the area and reported the incident. They also witnessed claimant in his apartment where he pushed Ms. Kreckler to view a video and swiped her items off the counter, and the situations again required a second support.

25. Claimant's BCBA support, Ms. Petersen, perhaps knows him best among his non-familial supports. She has worked with him on a weekly basis for several years. She was able to immediately rattle off the names of his support workers when asked who supports him. She provided credible testimony and a few years of corroborating notes and graphs of claimant's behavioral issues that include apraxia/motor loops causing his behavior of twirling, and his hazardous behaviors that include slapping a table repetitively, clapping his hands together, staring, pushing his hands together, pushing and hitting others on a body part with an open or closed hand, hitting himself on any part of his body with an open/closed fist, grabbing and pulling others on their arms or wrist, and property destruction. She credibly testified that while claimant does not engage in high intensity behaviors 24/7, it is not possible to predict when he will;

as such, a second support is needed because claimant would otherwise not be safe in the community when he is engaging in aggression or destructive behavior, as a stranger could get hurt, or he or his staff could get hurt.

26. Claimant's IF, Ms. Jorgensen, also gave compelling and detailed testimony. She has worked with claimant for five years, which is quite some time, and she has significant qualifications as an IF since the inception of SDP and as a trainee and mentor in that field throughout the State. In preparing for claimant's Year 5 SDP budget, it was clear that claimant wanted to be out in the community more at his day program and his art studio, and these goals continue to require him to need more than one support. He needs one staff support to ensure that he is regulated and to communicate with him through his letterboard and choice charts, and a second staff support to ensure the environment is something claimant can process as he is 37 years old, big, and strong. Ms. Petersen also credibly testified that claimant's parents have been acting as his second support for many years, and they are aging and physically and emotionally tired, and claimant no longer wants them to be his second support.

27. In addition, claimant's parents gave credible testimony. It is apparent they have provided secondary support to him for a very long time. They are elderly, at ages 69 and 72, and it is clear they have an inability to continue providing secondary support, several days each week, and at any hour, of any given day or night, which is what they have been doing. It is also clear that claimant no longer wants his parents to provide the secondary support they have been provided, as he is 37 years old, and he cannot maintain his independence and continue to live on his own, in his apartment, attend his day program and create his art, and do other activities, without support at a 2:1 ratio (2 staff to 1 client).

28. Based on all the above, claimant met his burden by demonstrating by a preponderance of the evidence that it is necessary for him to have 2:1 ratio (2 staff to 1 client) of SLS hours totaling 706 hours a month and for him to have supplemental staffing for his BMOD day program. Any other assertions advanced by the parties not addressed above and inconsistent with this decision, have been considered and are found to be unpersuasive.

29. As such, the appropriate outcome in this matter is to grant claimant's appeal and grant his request for 2:1 ratio (2 staff to 1 client) of SLS hours totaling 706 hours a month and supplemental staffing for his BMOD day program.

ORDER

Claimant's appeal of SDRC's decision to deny his request for funding of Supportive Living Services at a 2:1 ratio (2 staff to 1 client) for a total of 706 hours each month, through claimant's SDP, is granted, and claimant's request is granted.

Claimant's appeal of SDRC's decision to deny his request for funding of supplemental staffing at claimant's day program, a BMOD, that is currently approved in the budget at a 1:2 ratio (1 staff to 2 clients), through claimant's SDP, is granted, and claimant's request is granted.

DATE: February 9, 2026

JAMI A. TEAGLE-BURGOS
Administrative Law Judge
Office of Administrative Hearings

BEFORE THE
DEPARTMENT OF DEVELOPMENTAL SERVICES
STATE OF CALIFORNIA

In the Matter of:

Claimant

OAH Case No. 2025110180

Vs.

DECISION BY THE DIRECTOR

San Diego Regional Center

Respondent.

ORDER OF DECISION

On February 9, 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 but modified as follows:

1. In order to support services and supports that lead to claimant living in their least restrictive environment, data for ongoing services and supports, including but not limited to, behavior plan on hazardous behavior (aggression), behavior plan on twirling, and communication replacement behavior, shall be provided to San Diego Regional Center (SDRC) by claimant, their family, or claimant's vendor, at a consistent time period SDRC deems reasonable but no longer than every six months. Such data shall be utilized during claimant's annual IPP to assess ongoing services and supports directed towards claimant living in their least restrictive environment.

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 March 3, 2026.

Original signed by:

Katie Hornberger, Deputy Director
Community Assistance and Resolutions Division