

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

In the Matter of:

CLAIMANT

and

HARBOR REGIONAL CENTER, Service Agency.

DDS No. CS0031708

OAH No. 2025110665

PROPOSED DECISION

Joseph D. Montoya, Administrative Law Judge (ALJ), Office of Administrative Hearings, State of California, heard this matter on January 9, 2026, by videoconference.

Claimant briefly appeared, and was represented by his mother, and Sandra McElwee, independent facilitator and authorized representative. (Family names are not used in the interest of privacy.) Harbor Regional Center (HRC or Service Agency) was represented by Latrina Fannin, Manager of Rights and Quality Assurance.

Oral and documentary evidence was received. The record closed, and the matter was submitted for decision on January 9, 2026.

After the record closed, the ALJ noted Claimant had not formally moved his exhibits into evidence. In the interests of justice, and in light of the relaxed evidentiary rules found in Welfare and Institutions Code section 4712, subdivision (i)(2), the ALJ considered those documents found in Case Center, section B, as items 3-12 in deciding this matter. Those documents will be re-labelled as Exhibits A through I.

ISSUE

Does vendor rate reform apply only to vendors, or does it apply to all service providers, even if not vendors of a regional center, such that Claimant's Self Determination Budget should be adjusted.

EVIDENCE RELIED ON

In reaching this decision the ALJ relied upon the testimony of Mother, Sandra McElwee, and Judy Taimi, and exhibits 1 through 14 and A through I.

FACTUAL FINDINGS

The Parties and Jurisdiction

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

2. Claimant is a 21-year-old man who is eligible for services under the Lanterman Act based on his qualifying diagnosis of intellectual disability.

3. Claimant is a participant in the Self-Determination Program (SDP). He currently is in his fifth budget year in SDP; his budget totals approximately \$162,350. (Ex. 7.)

4. On October 16, 2025, Claimant sought an increase in his SDP budget, to reflect increases in the rates paid to vendored service providers due to rate reform. On October 29, 2025, HRC issued a Notice of Action (NOA) that denied the request, HRC taking the position that rate increases that resulted from rate reform applied only to vendors of the regional center, and not to those parties employed by Claimant through the SDP plan who were not vendors.

5. Claimant's mother submitted an appeal to the Department of Developmental Services (Department), which the Department received on November 6, 2025. (Ex. 3.) All jurisdictional requirements are met.

Background

6. An addendum to Claimant's Individual Program Plan (IPP) was received in evidence as Exhibit 4. The addendum was generated in March 2024. It indicates that Claimant needs support and supervision that will decrease unsafe and risky circumstances from occurring in the home and community. An assessment from 2021 indicated Claimant needed Applied Behavioral Analysis (ABA) therapy to address core deficits in language, communication, socialization, self-help skills, and safety skills. (Ex. 4, p. A13.)

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7. Claimant has been making progress in recent years. He has been working in a paid internship and is in his last year of a college-to-career program at a local community college. Mother and McElwee testified that much of Claimant's progress can be attributed to the efforts of a woman named Stacey who has been employed as personal assistant and respite worker, and who provides other services as well. Claimant's witnesses testified that when they used a vendor to provide such services they would not get the same worker for every shift, so training the workers about working with Claimant took much of their time. On other occasions substandard workers were sent to Claimant's home by a vendor.

8. Stacey previously worked as an aide in a local school district. She has received training in ABA. She has worked with Claimant for five years, and she has been completely reliable. She assists Claimant in his classes, helping him with his notes. Stacey helps Claimant with his independence and self-direction, and she works with him on safety issues. She is working for the same payrate as when she started five years ago, and would like a raise.

Rate Reform

9. In 2016, the Legislature began to study the sustainability, quality, and transparency of community-based services for persons with developmental disabilities. A study was completed by the Department in 2019, which recommended a number of changes to how services were provided, such as regional differentials to account for regional variance in the cost of living or doing business. (§4519.10, subd. (a)(1)-(a)(3).)

10. Section 4519.10 was enacted, with a stated intent to phase in funding and policies to implement rate reform, with the process to be completed by July 1, 2025. In conjunction with rate reform, the Department was tasked with implementing a

quality incentive program in order to improve consumer outcomes, service provider performance, and the quality of services. The Department was to develop measures or benchmarks, or both, for consumer outcomes and regional center and service provider performance. (§ 4519.10, subd. (e)(1)(A).)

11. Section 4519.10, subdivision (h), provides that the Department may implement, interpret or make specific the statute by means of written directives or similar instructions until regulations are adopted, which is to occur by June 30, 2028.

12. On September 15, 2022, the Department wrote to the executive directors of the regional centers regarding adjustments to individual budgets in SDP. The stated purpose of the letter was to provide guidance “for adjusting a Self-Determination Program (SDP) participant's individual budget when there are rate adjustments for vendored service providers.” (Ex. 10, p. A36.) The letter further states:

Consistent with W&I Code section 4685.8(m)(1)(A)(ii), which requires regional center certification that expenditures for the individual budget, including any adjustments, would have occurred regardless of the individual's participation in SDP, a participant's individual budget may be adjusted in the following situations:

The letter describes three situations where an SDP participant’s budget could be adjusted. The first was when it was necessary to bring employee pay into compliance with the state minimum wage. The second was when there was a change in rates for vendored services included in the individual budget calculation. The third situation was where the participant purchases SDP services from a provider who is also a vendored service provider and where the participant and provider have agreed to a rate for SDP

services that is equal to or based on a percentage of the provider's rate as established through vendorization. (*Id.*)

13. Service Agency cited a document entitled "Self-Determination Program—Frequently Asked Questions" which was published by the Department. (Ex. 11.) As to the question "how are individual budget in the Self-Determination Program (SDP) impacted by rate reform?" the response was that rate reform is not automatically applied to individual budgets in the SDP, noting that budgets are set by the IPP team, by determining the funds required to meet the individual's needs and IPP goals.

14. The Department noted that as of July 2025, an individual budget can be adjusted due to a change in the participant's circumstances, needs, or resources. It provided examples of where an IPP team can consider a request to change the budget to include the need to pay an increased minimum wage, or where a vendor is providing services and the vendor's rates have changed.

Other Matters

15. McElwee testified and submitted a declaration establishing that she works as an independent facilitator for a firm that works with approximately 120 families who participate in SDP. She serves 17 HRC SDP participants, none of whom use HRC vendors to provide services such as personal assistance, respite, independent living supports, and adaptive skills training. Eleven of her HRC clients automatically received 2025 rate reform increases, but three others were denied rate reform increases.

16. McElwee noted she has SDP clients at four other regional centers, all of whom passed rate reform increases onto her clients' budgets. McElwee believes, based

in part on conversations with other independent facilitators, that HRC is the only regional center that has denied 2025 rate reform increases to SDP participants.

17. The overall budget is not sufficient to pay Stacey all of the wages she earns; according to Claimant, they are utilizing funds meant for respite care to cover the other services, and thus Claimant's parents are not getting all the respite time that they should.

LEGAL CONCLUSIONS

1. An administrative fair hearing to determine the rights and obligations of the parties, if any, is available under the Lanterman Act. (§§ 4700-4716.)

2. As claimant is requesting a change in his budget, he bears the burden of proof. (See, e.g., *Lindsay v. San Diego Retirement Bd.* (1964) 231 Cal.App.2d 156, 161 (disability benefits).)

3. The standard of proof is the preponderance of the evidence because no law or statute (including the Lanterman Act) requires otherwise. (Evid. Code, § 115.) This standard is met when the party bearing the burden of proof presents evidence that has more convincing force than that opposed to it. (*People ex rel. Brown v. Tri-Union Seafoods, LLC* (2009) 171 Cal.App.4th 1549, 1567.)

4. A proposed decision is issued because this case involves federal funding under the SDP. (§ 4712.5, subs. (d) & (e).)

5. Section 4685.8 governs regional center consumers participating in the SDP. The purpose of the SDP is to provide participants and their families, within an individual annual budget, increased flexibility and choice, and greater control over

decisions, resources, and needed and desired services and supports to implement their IPPs. (§ 4685.8, subd. (a).) The individual budget is the amount of regional center purchase of service funding available to the participant for the purchase of services and supports necessary to implement the IPP. (*Id.*, subd. (c)(3).)

6. When developing the individual budget used for the SDP, the IPP team determines the services, supports, and goods necessary for the participant, based on the needs and preferences of the participant, and when appropriate the participant's family, the effectiveness of each option in meeting the goals specified in the IPP, and the cost effectiveness of each option, as specified in section 4648, subdivision (a)(6)(D). (§ 4685.8, subd. (b)(2)(H)(i).) A participant's unique support system may include the purchase of existing service offerings from service providers or local businesses, hiring their own support workers, or negotiating unique service arrangements with local community resources. (*Id.*, at subd. (b)(2)(B).)

7. The participant may utilize the services and supports available within the SDP only when generic services and supports are not available. (§ 4685.8, subd. (d)(3)(B).)

8. The budget may be adjusted when the IPP team determines that an adjustment is necessary due to a change in the participant's circumstances, needs, or resources that would result in an increase or decrease in purchase of service expenditures, or the IPP team identifies prior needs or resources that were unaddressed in the IPP, which would have resulted in an increase or decrease in purchase of service expenditures. (§ 4685.8, subd. (m)(1)(A)(ii)(I).)

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9. Since participants still must create and update their IPPs, the other provisions of the Lanterman Act not expressly exempted in section 4685.8 apply to funding determinations within the SDP process.

10. Section 4519.10 is focused on traditional vendors of services, and does not really speak to non-vendor service providers who work for or with SDP participants and their families. This observation is consonant with the Department's response, in its Frequently Asked Questions, which states rate reform is not automatically applied to individual budgets in the SDP. (Factual Finding 13.)

11. The Department, in its September 2022 letter to regional center directors detailed situations where rate reform might drive a budget adjustment, but the Department interprets section 4519.10 to mainly apply to vendors who are providing services; the application to non-vendors appears to only focus on minimum wage laws.

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12. On this record, it cannot be said that the Lanterman Act requires HRC to apply rate reform to Claimant's budget for non-vendored service providers. That does not mean that new rates cannot inform any discussions that the IPP team might have about funding going forward, nor does it bar adjustments to the budget due to a change in the participant's circumstances, needs, or resources that would result in an increase or decrease in purchase of service expenditures. (Legal Conclusion 8.)

ORDER

Claimant's appeal is denied.

DATE:

JOSEPH D. MONTOYA
Administrative Law Judge
Office of Administrative Hearings

BEFORE THE
DEPARTMENT OF DEVELOPMENTAL SERVICES
STATE OF CALIFORNIA

In the Matter of:

Claimant

OAH Case No. 2025110665

Vs.

DECISION BY THE DIRECTOR

Habor Regional Center

Respondent.

ORDER OF DECISION

On January 20, 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. 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 February 11, 2026.

Original signed by:

Katie Hornberger, Deputy Director
Community Assistance and Resolutions Division