

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

In the Matter of:

CLAIMANT

and

HARBOR REGIONAL CENTER,

Service Agency.

DDS No. CS0031917

OAH No. 2025110915

PROPOSED DECISION

Harden Sooper, Administrative Law Judge (ALJ), Office of Administrative Hearings, State of California, heard this matter by videoconference on January 15, 2026.

Sandra McElwee, Independent Facilitator, and Claimant's mother (Mother) represented Claimant, who was not present during the hearing. Names are omitted to protect the privacy of Claimant and his family.

Latrina Fannin, Manager of Rights of Quality Assurance, represented Service Agency.

The ALJ received testimony and documentary evidence. The record closed, and the matter was submitted for decision at the conclusion of the hearing.

ISSUE

Whether Service Agency is required under the Lanterman Developmental Disabilities Services Act (Lanterman Act) to increase Claimant's Self-Determination Program (SDP) budget for respite and child care services to reflect the third installment of statutory rate reform increases.

EVIDENCE RELIED UPON

In reaching this Proposed Decision, the ALJ relied upon Service Agency's Exhibits 1 through 9 and 11 through 13, Claimant's Exhibits A and C through O, and the testimony of the following witnesses: Ricardo Orozco, Service Agency Participant Choice Specialist; Jimmy Silvestre, Service Agency Client Service Manager; Sandra McElwee, Independent Facilitator; and Mother.

FACTUAL FINDINGS

Parties and Jurisdiction

1. Claimant is nine years old. He is eligible for regional center services based on a diagnosis of autism spectrum disorder.
2. Service Agency is a regional center designated by the Department of Developmental Services (DDS) to provide funding for services and supports to persons

with developmental disabilities under the Lanterman Act (Welf. & Inst. Code, § 4500 et seq.).

3. On October 23, 2025, Service Agency issued Claimant a Notice of Action denying Claimant's request to increase his SDP budget based upon new rate increases for regional center vendored service providers.

4. Claimant timely filed an appeal, requesting a fair hearing.

Background

SELF-DETERMINATION PROGRAM

5. Since December 1, 2022, Claimant has participated in the SDP. The SDP is a voluntary program for regional center consumers seeking increased freedom and flexibility in connection with their regional center services. Like regional center consumers using the traditional purchase-of-service model, an Individual Program Plan (IPP) sets forth an SDP participant's goals and the services and supports required to meet those goals. The IPP team, consisting of both Claimant's representatives and regional center personnel, determines the funds required to meet an SDP participant's needs and IPP goals. The team then agrees upon an annual SDP budget and, separately, a spending plan.

6. In the traditional purchase-of-service model, regional center consumers receive services and supports from vendors or contractors that have been identified, selected, and utilized by the regional center and who satisfy certain statutory and other requirements. (Welf. & Inst. Code, § 4648, subds. (a)(1) & (3)(A).) In contrast, SDP participants may choose service providers who may or may not be regional center vendors. SDP participants are not required to use regional center vendors.

7. Regardless of whether an SDP participant intends to purchase services from regional center vendors, when calculating the participant's initial SDP budget, the IPP team uses the traditional service model rates the regional center pays vendors providing services identified in the participant's IPP. In Claimant's case, those services include respite and child care, and thus Claimant's initial SDP budget allocated funds based on the cost of these services offered by a regional center vendor.

RATE REFORM

8. In 2021, the Legislature amended the Lanterman Act to include a statute known as service provider rate reform. The Legislature found the service provider rate structure administered by DDS lacked transparency, remained complex, was not tied to person-centered outcomes, and varied across providers who provide the same service in the same region. To address these issues, the rate reform statute phased in funding and policies beginning in the 2021–2022 fiscal year to implement rate reform, including a quality incentive program, and create an enhanced person-centered, outcomes-based system. The "transformation" was to be complete by July 1, 2025. (Welf. & Inst. Code, § 4519.10, subs. (a)(1) & (b).)

9. The rate reform statute requires service provider rate increases, based upon a rate model recommended by a study completed in 2019, to be implemented in three installments. The first installment was implemented beginning April 1, 2022, equaling 25 percent of the difference between the then-current rates and the fully funded rate model; the second installment was implemented beginning January 1, 2023, equaling another 25 percent of the difference; and the third installment was implemented beginning January 1, 2025. The third installment equaled 90 percent of the remaining difference between then-current rates and the fully funded rate model. Service providers meeting certain criteria also earn a quality incentive payment

equaling up to 10 percent of the rate model. (Welf. & Inst. Code, § 4519.10, subds. (c)(1)(A)–(C).)

CLAIMANT’S SDP BUDGET AND SERVICES

10. Claimant’s SDP budget calculation is based in part on the cost of services provided under the traditional purchase-of-service model for respite and child care services. Service provider rates associated with both service codes increased for Service Agency vendors pursuant to the rate reform statute. Claimant does not utilize Service Agency vendors for either respite or child care services.

Claimant’s Year 4 SDP Budget

11. Claimant’s Year 4 SDP budget funds services for the period December 1, 2025, through November 30, 2026. Claimant’s Year 4 budget totaled \$63,675.80, and his spending plan totaled \$63,675.55. The budget included funding for 40 hours per month of respite services and 25 hours per week of child care services, both at a rate of \$30.11 per hour. Service Agency denied Claimant’s request that his Year 4 budget include increased funding for respite and child care services reflecting the third installment of rate reform increases.

12. On October 16, 2025, Service Agency certified Claimant’s Year 4 SDP budget. Service Coordinator Susana Jones signed the certification, which stated: “[Service Agency] certifies that expenditures for the Individual Budget, including any adjustment, would have occurred regardless of the individual’s participation in the [SDP].” (Ex. 6, p. A25.)

13. On October 29, 2025, Service Agency approved Claimant’s Year 4 SDP spending plan. The spending plan does not include expenditures specifically for

respite or child care. However, Sandra McElwee, Claimant's Independent Facilitator, testified that funds budgeted for those services were included in the spending plan within the "community integration supports" category of services. Under "community integration supports," the spending plan allocated \$13,000 for 260 hours of services provided by a "community coach" named Aldeana and \$33,783.75 for 1,001 hours of services provided by an unidentified second "community coach." (Ex. 7, p. A27.)

Claimant subsequently identified and hired a second "community coach," as set forth in the spending plan. Ms. McElwee testified she considers the "community coaches" to be staff members who provide services to Claimant both at home and in the community, such as by accompanying Claimant to therapy appointments or other activities. Although respite and child care services are defined as in-home services meant to provide caregivers a break or allow caregivers to attend work or school, Ms. McElwee explained the flexibility of the SDP allows Claimant to use funds allocated for those services either in-home or in the community.

14. In support of its denial of Claimant's request for a Year 4 SDP budget increase, Service Agency cited a DDS directive issued September 15, 2022, entitled "Self-Determination Program: Adjustments to Individual Budget." (Welf. & Inst. Code, § 4519.10, subd. (h) [until DDS adopts regulations implementing and interpreting the rate reform statute, it may do so by means of written directives].) The directive states, "Current statute authorizes rate adjustments for some vendored service providers in certain circumstances. . . ." The directive sets forth three circumstances in which "a participant's individual budget may be adjusted": (1) increase in state minimum wage, (2) changes in rates for regional center vendored services included in the individual budget calculation, and (3) change in rates for a regional center vendored provider, who is also providing SDP services. (Ex. 8.) Service Agency's witnesses emphasized that rate adjustments apply only to regional center vendored service providers and any

other SDP budget increase must be based upon a change in a claimant's circumstances or needs.

15. In October 2025, DDS published in the "frequently asked questions" section of its website the following question and answer:

Q: How are individual budgets in the Self-Determination Program (SDP) impacted by rate reform?

A: Rate reform is not automatically applied to individual budgets in the SDP. This is because the participant's individual budget is set by the IPP team by determining the funds required to meet the participant's needs and IPP goals. A participant may request a meeting to adjust their individual budget. As of July 2025, individual budgets can be adjusted due to a change in the participant's circumstances, needs, or resources.

(Ex. 9.) The answer further sets forth two examples of when an IPP team can consider a request to change an individual budget: (1) a minimum wage rate increase and (2) when a participant receives services from a regional center vendored provider and the provider changes the amount they charge for their program to align with rate reform. In the second circumstance, the IPP team can discuss if the SDP participant has enough funds for the new amount the vendored provider will charge and adjust the budget if needed due to the change in circumstances.

16. Claimant asserts he is nonetheless entitled to a Year 4 SDP budget increase to reflect the third installment of rate reform increases because (1) 11 of Ms. McElwee's 17 clients receiving services from Service Agency received SDP budget

increases in connection with the third installment of rate reform increases, even though they did not use regional center vendored providers; (2) all of Ms. McElwee's clients receiving services from four other regional centers received such increases; and (3) Ms. McElwee believes, based upon discussions with other independent facilitators, that Service Agency is the only regional center statewide to deny SDP budget increases to reflect the third installment of rate reform increases. In summary, Claimant argued Service Agency misinterpreted the rate reform statute and Claimant is entitled to an SDP budget increase as a matter of law.

17. In her testimony and a written statement submitted into evidence, Mother emphasized Claimant's complex needs and the importance of qualified, consistent caregivers to Claimant and his family. Mother testified credibly about her concerns and the importance of regional center services to Claimant, and particularly of the flexibility afforded by the SDP. Mother contends that Service Agency has treated Claimant inequitably compared to consumers receiving services under the traditional model.

Analysis

18. Service Agency's denial is consistent with DDS's guidance published on its website and the September 15, 2022 directive. The September 15, 2022 directive allows regional centers to increase SDP budgets based on a change in rates for regional center vendored services included in a participant's individual budget calculation. However, the directive does not require regional centers to increase SDP budgets for non-regional center vendored services solely based on rate reform increases. On its website, DDS directly addresses the question of whether rate reform increases are automatically applied to SDP budgets, to which the answer is no.

19. Going forward, Service Agency's position may result in an inequity between consumers receiving their initial SDP budgets and consumers receiving subsequent year budgets. Pursuant to Welfare and Institutions Code section 4685.8, subdivision (m)(1)(A)(i), a consumer's initial individual budget shall be the total amount of the most recently available 12 months of purchase of service authorizations and the cost of services authorized by the IPP team but not currently provided in a purchase of service authorization, less services paid for by the regional center outside of the SDP and one-time expenses. Initial SDP budgets calculated after January 1, 2025, will therefore include the third installment of rate reform increases, whereas subsequent year budgets calculated for the same time period will not include those increases unless otherwise justified by a change in a consumer's circumstances or needs.

20. The evidence did not establish a change in Claimant's circumstances or needs justifying an increase in his SDP budget to reflect the third installment of rate reform increases for respite and child care services. Claimant does not use regional center vendored service providers whose rates increased pursuant to the third installment of rate reform. Although Claimant's SDP budget includes funding for respite and child care services, he instead uses those funds for community integration support services, specifically two "community coaches." Claimant did not demonstrate an unmet need resulting from Service Agency's denial, nor did the evidence establish the denial prevented Claimant from accessing respite or child care services.

21. Service Agency's certification of Claimant's Year 4 SDP budget is valid. Claimant's argument the Lanterman Act requires parity between the traditional model and SDP is not supported by a plain reading of the certification required by Welfare and Institutions Code section 4685.8, subdivision (m)(1)(A)(ii)(II). While initial SDP budgets are calculated using regional center vendor rates, that is not necessarily true

for subsequent SDP budgets. Regional centers must certify only that expenditures for an individual's SDP budget, including any adjustment, would have occurred regardless of the individual's participation in the SDP. Claimant's Year 4 SDP budget meets that requirement.

LEGAL CONCLUSIONS

Burden and Standard of Proof

1. Claimant bears the burden to prove by a preponderance of the evidence he is entitled to the SDP budget increase he requests. (Evid. Code, §§ 115, 500.) A preponderance of the evidence means 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.)

Applicable Law

2. The Lanterman Act is a comprehensive statutory scheme providing 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. The purpose of the statutory scheme is twofold: To prevent or minimize the institutionalization of developmentally disabled persons and their dislocation from family and community, and to enable them to approximate the pattern of everyday living of nondisabled persons of the same age and to lead more independent and productive lives in the community. (*Assn. for Retarded Citizens v. Dept. of Developmental Services* (1985) 38 Cal.3d 384, 388.)

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3. "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. (Welf. & Inst. Code, § 4512, subd. (b).)

4. Developing the IPP for a regional center consumer is the cornerstone of the Lanterman Act. The IPP process must consider the needs and preferences of the consumer and, where appropriate, the family, to determine the services and supports to be funded. (Welf. & Inst. Code, §§ 4646, 4646.5, 4647, 4648.) The planning process includes gathering information and conducting assessments to determine the "life goals, capabilities and strengths, preferences, barriers, and concerns or problems of the person with developmental disabilities." (Welf. & Inst. Code, § 4646.5, subd. (a)(1).) The IPP process must ensure conformance with the regional center's purchase of service policies and utilization of generic services and supports when appropriate. (Welf. & Inst. Code, § 4646.4, subds. (a)(1) & (2).)

5. "Self-determination" means "a voluntary delivery system consisting of a defined and comprehensive mix of services and supports, selected and directed by a participant through person-centered planning, in order to meet the objectives in their IPP." (Welf. & Inst. Code, § 4685.8, subd. (c)(6).) Self-determination is designed to give the participant greater control over which services and supports best meet their IPP needs, goals, and objectives. (Welf. & Inst. Code, § 4685.8, subd. (b)(2)(B).) One goal of the SDP is to allow participants to innovate to achieve their goals more effectively. (Welf. & Inst. Code, § 4685.8, subd. (b)(2)(G).)

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6. "Individual Budget" means the amount of regional center purchase-of-service funding available to the participant to purchase services and supports necessary to implement the IPP. (Welf. & Inst. Code, § 4685.8, subd. (c)(3).) The SDP requires a regional center, when developing the individual budget, to determine the services, supports, and goods necessary for each consumer based on the needs and preferences of the consumer, and when appropriate, the consumer's family, the effectiveness of each option in meeting the goals specified in the IPP, and the cost-effectiveness of each option. (Welf. & Inst. Code, § 4685.8, subd. (b)(2)(H)(i).)

7. The regional center can adjust an SDP participant's individual budget if a change in circumstances, needs, or resources would result in an increase or decrease in purchase of service expenditures, or if the IPP team identifies a prior unmet need that was not addressed in the IPP. (Welf. & Inst. Code, § 4685.8, subd. (m)(1)(A)(ii).) The IPP team must determine the individual budget to ensure the budget assists the participant to achieve the outcomes set forth in the participant's IPP and ensures their health and safety. (Welf. & Inst. Code, § 4685.8, subd. (j).)

8. "Spending plan" means the plan the participant develops to use their available individual budget funds to purchase goods, services, and supports necessary to implement their IPP. The spending plan shall identify the cost of each good, service, and support to be purchased with regional center funds. The total amount of an SDP participant's spending plan cannot exceed the amount of their individual budget. (Welf. & Inst. Code, § 4685.8, subd. (c)(7).)

9. The SDP requires participants to "only purchase services and supports necessary to implement their IPP." (Welf. & Inst. Code, § 4685.8, subd. (d)(3)(C).) The SDP specifically obligates the participant to "manage [SDP] services and supports

within the participant's individual budget." (Welf. & Inst. Code, § 4685.8, subd. (d)(3)(D).)

10. Regional centers must certify SDP participants' spending plans to verify that the goods and services address the participants' desired outcomes identified in the IPP, are not available from generic services, as defined by DDS, and are eligible for federal financial participation. (Welf. & Inst. Code, § 4685.8, subd. (r)(6)(A)–(C).)

Disposition

11. For the reasons set forth in Factual Findings 18 through 21, Claimant did not prove by a preponderance of the evidence he is entitled to an increased Year 4 SDP budget to reflect the DDS third installment of rate reform increases. His appeal must therefore be denied. However, this decision does not preclude Claimant from requesting an SDP budget increase based upon a change in circumstances, needs, or resources.

ORDER

Claimant's appeal is denied.

DATE:

HARDEN SOOPER
Administrative Law Judge
Office of Administrative Hearings

BEFORE THE
DEPARTMENT OF DEVELOPMENTAL SERVICES
STATE OF CALIFORNIA

In the Matter of:

Claimant

OAH Case No. 2025110915

Vs.

DECISION BY THE DIRECTOR

Harbor Regional Center

Respondent.

ORDER OF DECISION

On January 23, 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