

**BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA**

In the Matter of:

CLAIMANT

vs.

FRANK D. LANTERMAN REGIONAL CENTER,

Service Agency.

DDS No. CS0033382

OAH No. 2026010549

DECISION

Jennifer M. Russell, Senior Administrative Law Judge, Office of Administrative Hearings (OAH), State of California, heard this matter by videoconference on March 4, 2026.

Mirka Guerro, Fair Hearing and Compliance Coordinator, represented Frank D. Lanterman Regional Center (FDLRC or service agency). Mother represented Claimant, who was not present. Mother and Claimant are not specifically identified to preserve their privacy and maintain confidentiality.

Cindy Lopez, Regional Manager of the School Age Transition Team, and Mother testified. The service agency's Exhibits 1 through 5 and 7 and Claimant's Exhibits B, C, E through H, J, K, M, R, V, X through DD, FF through JJ, LL, and MM were admitted in evidence. The service agency's Exhibit 6 and Claimant's Exhibits A, D, I, L, N through Q, S through U, W, EE, and KK were marked for identification only.

Pursuant to a post-hearing order the record remained open for FDLRC submission of its Service Standard, which was received and admitted in evidence as Exhibits 9 and 10. The record closed and the matter was submitted for decision on March 6, 2026.

ISSUE FOR DETERMINATION

Whether FDLRC should have funded 20 additional respite care service hours for Claimant for the months of December 2025 and January 2026.

FACTUAL FINDINGS

Jurisdictional Matters

1. On December 23, 2025, Mother, on behalf of Claimant, requested FDLRC to fund 20 additional hours of in-home respite care services for the months of December 2025 and January 2026 "due to a significant increase in administrative and advocacy demands related to recent Regional Center actions and pending appeal and mediation process." (Exh. B.)

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2. By Notice of Proposed Action dated January 12, 2026, FDLRC denied the request for 20 additional respite service hours stating, “[Claimant] currently is receiving 30 hours of respite care and 66 hours of in home care. After review of your request and assessing the needs of [Claimant] the [FDLRC] determined that those hours are currently meeting her needs.” (Exh. 1 at p. 2 [A2].)

3. On January 14, 2026, Mother filed a Fair Hearing Request.

4. All jurisdictional requirements are met.

Claimant’s Background

5. Claimant’s most recent Individual Program Plan (IPP), dated September 19, 2025, which subsequently has been amended, establishes that Claimant is a 14-year-old female consumer of FDLRC due to her qualifying diagnosis of Autism Spectrum Disorder. Mother’s unrefuted testimony established Claimant has additional diagnoses for Attention Deficient Hyperactivity Disorder, Auditory Processing Disorder, Visual Processing Disorder, Dyslexia, Hypermyalgia, and Migraine Headache.

6. Claimant’s IPP reports Claimant “is developing her self-advocacy and communication skills. She is learning how to appropriately express her needs, make informed choices, and determine safe and appropriate responses in social situations, including understanding ‘stranger danger.’” (Exh. 5.) Claimant is able to make age-appropriate decisions at times but she struggles to understand why she is not allowed to do certain things based on her own perspective. Claimant uses advocacy scripts to strengthen her ability to communicate with adults and peers. Due to carpal tunnel syndrome in both wrists, Claimant uses speech-to-text technology to support her communication and learning. Claimant requires support in developing independent living skills both at home and in the community. The IPP notes, “She needs to build

upon her functional life skills that assist her with completing chores, money handling, being hygienic and in the participating in the community." (*Ibid.*) At times, Claimant withdraws from friends. Claimant is working on building and maintaining friendships. Claimant understands potential dangers but she is not always fully aware of or diligent about her surroundings. Claimant's community participation includes travel, horseback riding, and crocheting.

7. Claimant resides with Mother, her sole caregiver. A private academy provides Claimant with one-on-one academic instruction.

FDLRC Service Standard for Respite and In Home Care

8. The FDLRC Respite Service Standard, which the FDLRC Board of Directors approved on August 23, 2017, and revised on October 26, 2022, and which the Department of Developmental Services (DDS) approved on November 28, 2018, and revised on March 3, 2025, defines respite care services as follows:

Respite is a support service designed to provide family members, or those who reside in the home and act as primary caregivers for a person with a developmental disability, with temporary relief from the constant care required to ensure the health and safety of a person with a developmental disability. Respite may be provided in the person's own home or in a licensed residential facility, on a planned or emergency basis. Respite is not designed to be used as day care.

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Families are expected to provide for their own respite with the assistance of family members or friends or through the use of paid supports. If, however, the Interdisciplinary Team determines that the person requires a degree of care beyond that normally required by an individual of the same age without a disability, Regional Center Funded respite may be authorized.[1]

Through a person centered planning process, and based on the needs of the individual and the family, a person may be considered for up to 30 hours per month of purchased respite to ensure the person has adequate support and that primary caregivers have an opportunity to attend to other matters. Individuals can be considered for additional monthly respite hours based on exceptional circumstances including, but not limited to, the factors described below. Additionally, In-Home Support Services (IHSS) may be discussed and considered to see if it meets the needs of the individual and family as identified in the individual planning process:

The person has serious, documented challenging behavioral support needs, such as leaving/running away without adequate support to ensure health and safety, aggressive acting out, assaultive or self-abusive behaviors, or hyperactivity, that may present a danger to the person or others;

The person has significant medical needs, such as the need to be closely monitored for uncontrolled seizures or respiratory problems, to receive special feeding, or to receive care for a gastrostomy, tracheotomy or special equipment;

The person has significant self-help skills deficits when compared to a nondisabled person of the same age, such as, for an adolescent or adult, the inability to eat, use the restroom or walk independently;

The family is experiencing severe stress from a situation such as chronic or serious illness, more than one family member with a disability, or disability of the primary caregiver, that precludes care of the person with a developmental disability or creates the potential for neglect or abuse;

The need to care for an older adult client who continues to reside in the family home with aging parents or caregivers who have difficulty meeting the care needs of the person being served;

The family experiences an emergency, such as serious illness or death of a family member or hospitalization of a parent or caregiver; or

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The family is experiencing other exceptional circumstances that may temporarily impede the parents or caregivers ability to provide care for the individual being served.

(Exh. 9.)

9. The FDLRC Extended Day, Year, and Saturday Services Service Standard, which the FDLRC Board of Directors approved on April 27, 2022, and which the DDS approved on March 3, 2025, defines extended day, year, and Saturday services as follows:

Extended day and year services, and Saturday programs are intended for children and adults living at home who have a constant need for a structured setting beyond the primary day program to prevent deterioration in their behavior or who have significant self-help skill deficits. These services are purchased when they are necessary to maintain the child or adult served by the Center in the family home.

The purchase of up to 3 hours per day, or 66 hours per month, of extended day services and/or 6 hours per week of Saturday programming may be considered if either of the following criteria are met:

The individual served has serious behavior problems requiring intervention beyond that expected of a regular after-school or after-program setting. Examples would include aggressive acting-out, assaultive or self -abusive

behavior, property destruction or hyperactivity that presents a potential danger to the individual or others; or

The individual served has significant self-help skill deficits for his or her age requiring skilled intervention beyond that expected of a regular after school program. Examples would include adolescents or adults who are unable to feed, use the toilet or ambulate independently or communicate their needs; and

Such care is not available to the family through usual resources found in communities at the usual cost such as, but not limited to, recreation centers, schools, churches, and the YMCA.

The Center may also consider exceptions to increase hours due to unique individual or family circumstances that limit the parent/guardian's ability to provide care and supervision. Examples may include, but are not limited to parental/guardian employment, temporary illness in the family, or other exceptional circumstances.

The hours of extended day may be increased on a case by case basis during the months when school or regular program hours are reduced. . . . All authorized hours for these types of programs are considered on a case by case basis and will be coordinated with respite and/or other purchased services.

(Exh. 10.)

10. At hearing, Ms. Lopez explained in-home care “is pretty much like respite” and it is used “in lieu of an after school program.” Ms. Lopez explained respite care is not intended to replace daycare or babysitting services. Ms. Lopez noted FDLRC funds a total of 96 hours per month of “temporary relief” to ensure Mother has breaks from the constant care and supervision needed to meet Claimant’s need.

11. Claimant’s IPP documents FDLRC funds “Conversion Respite Care at 30hrs/mo from 09/01/25-08/31/26 through Better Living Home Care” and “Conversion In Home Care at 66hrs/mo from 09/01/25-08/31/26 through Better Living Home Care” for Claimant. (Exh. 5.) Ms. Lopez maintained that these 96 hours “are enough to meet [Claimant’s] needs.”

12. A graphic of Claimant’s weekly schedule admitted as Exhibit MM illustrates how Claimant’s combined respite and in-home care service hours are used. On Mondays through Thursdays Claimant attends school until 1:00 p.m. After school, Claimant has “In-Home Care with Julie” until 4:00 p.m. On Fridays, Claimant does not attend school and receives “Respite Care with Julie” from 7:00 a.m. to 2:00 p.m. On Saturdays, Claimant receives “Respite Care with Julie” from 7:00 p.m. to 1:00 p.m., with the exception of the 11:00 am hour, which is denoted as “In-home Care with Julie.”

13. Ms. Lopez testified there were no changes in Claimant’s circumstances or needs in December 2025 or January 2026. In support of her testimony, Ms. Lopez referenced the service agency’s January 23, 2026 informal meeting with Mother.

14. During the informal meeting, Mother told a designee of FDLRC’s executive director that she experienced a significant increase in time and attention spent on advocacy and related administrative tasks preparing multiple complaints in

accordance with Welfare and Institutions Code section 4731, participating in one mediation and preparing for another, as well as responding to ongoing issues with FDLRC personnel. Mother maintained the demands on her time and attention were beyond typical parental responsibilities. Mother's testimony did not quantify what constitutes a significant increase in her time and attention spent performing advocacy and related administrative tasks in December 2025 and January 2026.

15. In a letter documenting the informal meeting, the designee acknowledged Mother's increased time and attention to legal matters but nonetheless declined to grant an additional 20 hours of respite case service for December 2025 and January 2026.

While I don't disagree with your statements that preparing 4731 complaints including producing documentation and devoting time to figuring out errors made with the fiscal management services . . . agencies were time-consuming activities, I believe that [Claimant's] needs can be met with the total monthly hours allotted.

(Exh. 3.)

Mother's Testimony

16. Mother testified, between December 22, 2025 and January 2, 2026, Claimant was on a winter break from school and unlike previous breaks Claimant did not attend camp or participate in other structured activities. Over a four-day period ending on January 9, 2026, Mother attended a professional work-related conference. Mother experienced an acute medical event, which required her to bed rest and attend scheduled follow-up medical appointments on January 5, 15, and 28, 2026. Also in

January, Mother sustained an unspecified workplace injury, which required medical evaluation on January 29, 2026. According to Mother's testimony, the "temporary disruptions to [Claimant's] normal, structured supervision schedule" converged with "circumstances [that] temporarily decreased [her] ability to provide supervision" for Claimant at a time when she was required to respond promptly to "time-sensitive service actions."

17. Mother testified about her supervision of Claimant while she prepared for meetings, mediations, and hearings to "preserve [Claimant's] already approved services." Mother explained that, for example, Claimant experienced episodes of intense migraine headaches as she was preparing for her advocacy on behalf of Claimant. Mother testified, "I couldn't just leave her in her room by herself so I can prepare for a fair hearing. She can't just be in her room by herself and I'm in my room trying to type, do research, and make phone calls because she needs supervision. . . . It is hard to do advocacy and balance everything."

LEGAL CONCLUSIONS

The Applicable Law

1. Under the Lanterman Developmental Disabilities Services Act (Lanterman Act), regional centers, including FDLRC, play a critical role in the coordination and delivery of treatment and habilitation services and supports for persons with disabilities. (Welf. & Inst. Code, § 4620 et seq.) Such services and supports include daycare and respite. (Welf. & Inst. Code, § 4512, subd. (b).) Regional centers, including FDLRC, are responsible for ensuring the provision of treatment and habilitation services and supports to individuals with disabilities and their families effectively meets

stated IPP goals. Regional centers, including FDLRC, are additionally responsible for the cost-effective use of public resources. (Welf. & Inst. Code, §§ 4646, subd. (a), 4646.5, subd. (a)(4), 4647, subd. (a), and 4648, subd. (a)(8) & (9).)

2. To those ends, the Lanterman Act specifically obligates regional centers, including FDLRC, to purchase services and supports in conformity with their purchase of service policies approved by the Department. (Welf. & Inst. Code, § 4646.4, subd. (a)(1).) The Department reviews regional centers' guidelines "to ensure compliance with statute and regulation" prior to promulgation of the guidelines. (Welf. & Inst. Code, § 4434, subd. (d).) The guidelines are deserving of deference because they reflect the regional center's expertise and knowledge. (See *Yamaha Corp. of America v. State Bd. of Equalization* (1998) 19 Cal.4th 1, 12-15.) Importantly, guidelines regional centers promulgate, including FDLRC, must account for consumers' individual needs when making eligibility determinations for services and supports. (See *Association for Retarded Citizens v. Department of Developmental Services* (1985) 38 Cal.3d 384, 388; *Williams v. Macomber* (1990) 226 Cal.App.3d 225, 232-234.) Regional centers, including FDLRC, must ensure "[u]tilization of generic services and supports when appropriate." (Welf. & Inst. Code, § 4646.4, subd. (a)(2).)

Burden and Standard of Proof

3. Claimant bears the burden of establishing by a preponderance of the evidence her entitlement to 20 additional respite hours under the Lanterman Act. (*Lindsay v. San Diego Retirement Bd.* (1964) 231 Cal.App.2d 156, 161 [disability benefit]; Evid. Code, §500.)

4. Preponderance of the evidence means evidence that has more convincing force than that opposed to it. (See *Glage v. Hawes Firearms Company*

(1990) 226 Cal.App.3d 314, 324.) “[T]he sole focus of the legal definition of ‘preponderance’ in the phrase ‘preponderance of the evidence’ is on the *quality* of the evidence. The *quantity* of evidence presented by each side is irrelevant.” (*Id.* at 325, original italics.) In meeting the burden of proof by a preponderance of the evidence, Claimant “must produce substantial evidence, contradicted or un-contradicted, which supports the finding.” (*In re Shelley J.* (1998) 68 Cal.App.4th 322, 339.)

Discussion

5. Respite is intended to provide primary caregivers for individuals with a developmental disability with temporary relief from the constant care required to ensure the health and safety of developmentally disabled individuals. Consistent with the Lanterman Act, FDLRC promulgated its Respite Service Standard, which specifies that primary caregivers are expected to provide for their own respite with the assistance of family members or friends or the use of paid supports. However, based on the needs of the individual with a developmental disability and through a person centered planning process that determines the individual requires a degree of care beyond that which is normally required by an individual of the same age without a disability, FDLRC-funded respite care services for up to 30 hours per month may be authorized.

6. A person centered planning process determined Claimant requires care beyond that which is normally required of an individual of the same age without a developmental disability. Consequently, FDLRC funds 30 hours per month of respite care services for Mother’s temporary relief from her constant care of Claimant.

7. The FDLRC Respite Service Standard additionally addresses when an individual with a developmental disability may be eligible for FDLRC-funded respite

care services beyond 30 hours per month. As discussed in Factual Finding 8, the Respite Service Standard contemplates “exceptional circumstances,” none of which the evidentiary record establishes is present in this case.

8. Claimant’s IPP does not document that Claimant presents with challenging behaviors, such as eloping, aggression, self-harm, or hyperactivity. There is no documentation Claimant presents with uncontrolled seizures or respiratory problems or other significant medical needs requiring close monitoring, such as gastrostomy or tracheotomy care. Claimant’s IPP does not document Claimant presents with significant self-help skills deficits, such as an inability to eat, use the restroom, or walk independently.

9. The evidentiary record does not establish Claimant’s primary caregiver, Mother, has a disability or chronic illness that precludes Mother’s care of Claimant. The evidence shows only that Mother experienced an acute medical event requiring her temporary bed rest followed by three medical appointments and a workplace injury requiring a medical evaluation, both of which were limited to January 2026. Importantly, Mother does not claim any of these medical events as justification for the 20 additional respite care service hours she requests. Mother’s request is based on her advocacy and related administrative tasks on Claimant’s behalf.

10. The evidentiary record does not establish Mother as an aged caregiver having difficulty meeting Claimant’s care needs. Nor is there evidence of an emergency, such as the illness, hospitalization, or death of a family member, or other exceptional circumstance temporarily impeding Mother’s ability to care for Claimant.

11. The evidentiary record establishes that, in December 2025 and January 2026, Mother was able to and in fact did discharge her parental responsibilities caring

for Claimant. Parental responsibilities include making decisions about a child's upbringing, education, health, and wellness. Advocacy is not only embedded in the exercise of parental responsibilities, but also expressed through self-education to acquire information, knowledge, and resources; supervision and coordination of services and service providers; acquisition, retention, and organization of documents; communication with agency personnel; and filing complaints and pursuing mediation or due process hearings.

12. The evidentiary record establishes Claimant's individualized and specific circumstances determined the form and character of how Mother discharged her parental responsibilities caring for Claimant through her advocacy. Mother's devotion of time and attention to learn how to navigate the FDLRC's processes and procedures in order to advocate on behalf of Claimant is neither objectively nor comparatively excessive, as Mother contends.

13. Notably, the 30 hours per month of FDLRC-funded respite care services are intended to provide Mother with temporary relief from the constant care rendered to Claimant in December 2025 and January 2026, which includes advocacy and all its concomitant administrative tasks. Mother's request for 20 additional hours per month of FDLRC-funded respite care services to discharge her parental responsibility advocating on Claimant's behalf is inconsistent with the intended design and purpose of respite as a support service. Stated differently, FDLRC Respite Service Standard, consistent with the Lanterman Act, does not contemplate Mother's utilization of respite care services to discharge her parental responsibilities, including her advocacy and the related administrative tasks she performs on Claimant's behalf. Respite care services are intended to provide Mother with temporary relief from those parental responsibilities.

14. The preponderance of the evidence does not establish Claimant's entitlement to 20 additional hours per month of FDLRC-funded respite care services for the months of December 2025 and January 2026.

ORDER

Claimant's appeal is denied.

DATE:

JENNIFER M. RUSSELL

Senior Administrative Law Judge

Office of Administrative Hearings

NOTICE

This is the final administrative decision. Each party is bound by this decision. Pursuant to Welfare and Institutions Code section 4713, subdivision (b), either party may request in writing a reconsideration within 15 days of receiving the decision or appeal the decision to a court of competent jurisdiction within 180 days of receiving the decision.

**BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA**

In the Matter of:

Claimant,

and

Frank D. Lanterman Regional Center,

Service Agency.

DDS No. CS0033382

OAH No. 2026010549

ORDER DENYING CLAIMANT'S APPLICATION FOR RECONSIDERATION

An Administrative Law Judge (ALJ) from the Office of Administrative Hearings (OAH) issued a decision in this matter on March 18, 2026.

On March 20, 2026, Claimant applied to OAH for reconsideration of the Decision under Welfare and Institutions Code section 4713. (All undesignated statutory references are to the Welfare and Institutions Code.) Claimant submitted two documents: (1) a Final Hearing Decision Reconsideration Request Form DS 1824, and (2) a separate written statement explaining the basis for reconsideration (together, the Application). The Application was timely submitted, but did not include a proof of

service showing that claimant served Frank D. Lanterman Regional Center (FDLRC) or the Department of Developmental Services (Department) with the Application. On March 22, 2026, OAH gave notice of the Application to FDLRC and to the Department. The undersigned hearing officer did not hear the matter or write the decision for which reconsideration is requested.

A party may request reconsideration to correct a mistake of fact or law or a clerical error in the decision, or to address the decision of the original hearing officer not to recuse themselves following a request pursuant to section 4712, subdivision (g). (§ 4713.) Here, claimant seeks reconsideration on the grounds that the Decision contains mistakes of fact. Claimant contends the following portion of a legal conclusion in the Decision is a mistake of fact:

Importantly, Mother does not claim any of these medical events as justification for the 20 additional respite care service hours she requests. Mother's request is based on her advocacy and related administrative tasks on Claimant's behalf.

(Decision, p. 14.) Claimant contends this finding is an "incomplete characterization of Mother's claim" at the hearing. Claimant also seeks reconsideration of the following legal conclusions in the Decision as additional mistakes of fact:

[¶] Parental responsibilities include making decisions about a child's upbringing, education, health, and wellness. Advocacy is not only embedded in the exercise of parental responsibilities, but also expressed through self-education to acquire information, knowledge, and resources;

supervision and coordination of services and service providers; acquisition, retention, and organization of documents; communication with agency personnel; and filing complaints and pursuing mediation or due process hearings.

12. The evidentiary record establishes Claimant's individualized and specific circumstances determined the form and character of how Mother discharged her parental responsibilities caring for Claimant through her advocacy. Mother's devotion of time and attention to learn how to navigate the FDLRC's processes and procedures in order to advocate on behalf of Claimant is neither objectively nor comparatively excessive, as Mother contends.

13. Notably, the 30 hours per month of FDLRC-funded respite care services are intended to provide Mother with temporary relief from the constant care rendered to Claimant in December 2025 and January 2026, which includes advocacy and all its concomitant administrative tasks. Mother's request for 20 additional hours per month of FDLRC-funded respite care services to discharge her parental responsibility advocating on Claimant's behalf is inconsistent with the intended design and purpose of respite as a support service. Stated differently, FDLRC Respite Service Standard, consistent with the Lanterman Act, does not contemplate Mother's utilization of respite

care services to discharge her parental responsibilities, including her advocacy and the related administrative tasks she performs on Claimant's behalf. Respite care services are intended to provide Mother with temporary relief from those parental responsibilities.

(Decision, p. 15.) Claimant contends these findings must be reconsidered such that claimant's request for funding of additional respite hours "is evaluated based on the combined medical, caregiving, supervision, and agency-correction circumstances reflected in the hearing evidence and testimony, rather than being characterized solely as an administrative-burden request." Claimant also seeks reconsideration of the Decision's broad characterization that "treats this level of repeated corrective action as ordinary parental responsibility."

FDLRC did not file a written statement supporting or opposing the Application.

ANALYSIS

As noted above, section 4713, subdivision (b), allows reconsideration "for a correction of a mistake of fact or law." The wording of section 4713, subdivision (b), as well as the expedited deadline for deciding an application set by section 4713, subdivision (d), make clear that the mistake of fact or law in question must be apparent from the decision, such as an obvious mathematical error in calculating hours of service, an order that fails to accurately encompass the legal conclusions, citation to the wrong statute, or reliance on a law that is no longer in effect. In such instances, the hearing office can either correct the mistake if the resolution is apparent from the decision or order the matter to be reheard if the resolution is not apparent.

There is nothing in section 4713 suggesting an application for reconsideration contemplates the hearing office reviewing the entire record, including the admitted exhibits and the recorded hearing, to determine whether the ALJ made errors in evidentiary rulings or made mistakes of fact or law. That process is undertaken in an appeal of the decision to the Superior Court, not in an application for reconsideration under section 4713.

Notably, all of claimant's alleged mistakes of fact are contained in the Decision's legal conclusions, not its factual findings. It is more proper to describe claimant's alleged mistakes of fact as disagreements with the Decision's characterization of claimant's legal position and arguments related to her dispute with FDLRC. In other words, claimant contends the ALJ did not consider certain evidence or did not apply the law correctly. As noted above, such claims are not redressable by section 4713. Here, there appears to be no mistake of fact or law apparent from a review of the Decision alone. For this reason, the Application must be denied.

ORDER

The application for reconsideration is DENIED.

DATE:

TAYLOR STEINBACHER
Administrative Law Judge
Office of Administrative Hearings