BEFORE THE
DEPARTMENT OF DEVELOPMENTAL SERVICES
STATE OF CALIFORNIA

In the Matter of the Fair Hearing Requests of:

CLAIMANT,

and

REGIONAL CENTER OF ORANGE COUNTY, Service Agency.

DDS No. CS0033462

OAH No. 2026010737

PROPOSED DECISION

Glynda B. Gomez, Administrative Law Judge, Office of Administrative Hearings (OAH), State of California, heard this matter by videoconference on May 8, 2026. The hearing date was continued to May 18, 2026 for the sole purpose of submission of written closing briefs by the parties. The briefs were received and marked as exhibits 14 and C16.

Claimant was represented by his mother who is also his authorized representative. Claimant was not present.

Ubelester Penaloza, Fair Hearing Representative, represented Regional Center of Orange County (RCOC or service agency).

The record closed and the matter was submitted for decision on May 18, 2026

ISSUES

1. Shall Service agency provide funding for physical therapy until Claimant begins therapy sessions paid by his insurer.

2. Shall service agency provide funding for Claimant to receive "non-medical bodywork/massage."

EVIDENCE RELIED UPON

Exhibits 1-14 and C1-C16 ; Testimony of Mother, Isela Velasquez, Christina Genter, Crystal Chavez, and Dr. Rebecca Lech.

FACTUAL FINDINGS

Parties and Jurisdiction

1. Claimant is a 23-year-old conserved male. He is eligible for regional center based upon his diagnosis of Autism Spectrum Disorder. Claimant is also diagnosed with Asthma, Generalized Anxiety Disorder, and Moderate Intellectual Disability. Claimant also experienced an episode of Major Depressive Disorder sometime in 2022-2023.

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2. Claimant requested that RCOC fund his physical therapy (PT) on an "interim basis" until his new provider commenced PT sessions and before his PT evaluation was completed. Claimant also requested that RCOC fund "non-medical bodywork massage." RCOC refused both requests and issued Notices of Action (NOAs). Claimant appealed and this hearing on those issues ensured.

3. Claimant participates in the Self-Determination Program (SDP) and is in year 2. His September 15, 2025 SDP Individual Budget amount is $238,054.24 (Exhibit 4). Claimant's SDP budget includes line items for Personal Assistance, Independent Living Program, Community Activities, Participant -Directed Transportation, Behavior Analyst, and Purchase Reimbursement for "Shea Riding Center", "Shape 2 Tone" and "OC Music." (Ex. 4.) Claimant's SDP spending plan allocates the funds as follows: Community living-$142,443.84 to three individuals including Mother, Behavioral Intervention Services-$36,525 and Employment and Community Participation-$31,962.64 for a total of $210,931.48. All funds allocated are not expended in the budget. $27,122.76 of the SDP budget has not been utilized.(Ex.5.)

4. Historically, Claimant received occupational therapy (OT), applied behavioral analysis (ABA), speech and language therapy (SLT) and PT through a combination of his medical insurance, Medi-Cal and/or his local school district.

5. Claimant was insured through his mother's private insurance and Medi-Cal until December 31, 2025. Effective January 1, 2026, Claimant is only insured through Medi-Cal.

6. Claimant requested that Service Agency pay for his PT while he transitions from private insurance to solely Medi-Cal coverage. Claimant is also transitioning to a new provider because his previous provider was a pediatric focused

practice which only services individuals under the age of 26. There is no dispute about Claimant's need for PT. Claimant's physician made a referral to a provider on January 6, 2026. Claimant is scheduled for an evaluation with a new provider before PT sessions can commence. There has not been a denial of coverage for PT or a denial of PT by Medi-Cal. However, there has been a delay because of provider unavailability and insurance changes. Claimant is distressed about the wait to get an evaluation and to start PT. Claimant requests that RCOC immediately fund PT sessions for the "interim" until the commencement of Medi-Cal funded PT sessions. There was no evidence that PT sessions are currently available for Claimant from any provider before completion of an evaluation whether funded by RCOC or Medi-Cal.

7. Claimant also requested that RCOC fund "non-medical body work massage" provided by Greenlight chiropractic. Claimant asserts that the massage helps with sensory regulation and calms him. There is no evidence that Claimant has a medical need for chiropractic services or that chiropractic services were denied by Medi-Cal. Instead, Claimant asserts that the "non-medical bodywork massage" should be funded as a non-medical service or therapy, or as social recreation.

8. Greg MacDonald, D.C., a licensed chiropractor, of Greenlight Chiropractic and Wellness Lab wrote a letter dated January 14, 2026 in support of Claimant's requests. In pertinent part, the letter states:

> I am familiar with [Claimant's] autistic condition. I have treated him chiropractically for several months on a regular basis. He has responded well to care and my direction and is easy to work with.

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> He is very comfortable with my office, the staff and I feel he would greatly benefit from a non-medical bodywork to help with relaxation, sensory regulation and help him with being active with other services.
>
> We could begin with 30 minute sessions and expand to longer sessions if he can tolerate it.

(Ex. 9.)

9. Isela Velasquez, Area Manager, has worked for RCOC for 19 years. Ms. Velasquez supervises service coordinators at RCOC. Ms. Velasquez testified about the SDP process and the requirements of the Lanterman Act and the SDP program that consumers utilize generic resources and that such resources must be exhausted before RCOC, a payor of last resort, funds a service.

10. Christine Genter, a Behavior Specialist, has been employed by RCOC for 23 years. Ms. Genter is familiar with Claimant. She opined that if Claimant is experiencing challenging behaviors, a functional behavioral assessment should be conducted to determine why he is displaying the behavior and a plan developed to address the behavior. According to Ms. Genter, there is an ABA curriculum to address challenging behaviors. An ABA program would be tailored to Claimant's individual needs. Ms. Genter was not an expert in the practice of "non-medical body work massage." However, Ms. Genter opined that it is not an evidence-based practice like ABA.

11. Crystal Chavez is the SDP Program Coordinator. She has held the position for two years and has worked at RCOC for 9 years. She testified that SDP funded services must be related to a recognized service category and Individualized Program

Plan (IPP) goals. Ms. Chavez is tasked with ensuring that SDP expenditures comply with SDP requirements. According to Ms. Chavez, "non-medical massage bodywork" does not fit any of the exiting allowable expenditure categories, including social recreation, for SDP plans and does not support any goal established in Claimant's IPP. Massage therapy is typically a medical expenditure.

12. Dr. Rebecca Lech is a licensed osteopathic physician and a medical consultant for RCOC. According to Dr. Lech, Claimant has received a referral from his primary care physician for PT. The PT provider has now scheduled Claimant for a PT evaluation. The PT evaluation will determine the necessity and goals for the PT sessions. RCOC itself does not conduct PT evaluations. Therefore, no PT services can, or will, d be rendered until after a PT evaluation. Once Claimant's provider conducts the evaluation, any necessary PT sessions should be available through the provider and funded by Medi-Cal. She also testified that the term "non-medical body work massage" is not a medical term and does not reference a medical therapy.

LEGAL CONCLUSIONS

Jurisdiction and Burden of Proof

1. Claimant, as the party advocating a change in government benefits or in the status quo, has the burden of proof. (*Lindsay v. San Diego Retirement Bd.* (1964) 231 Cal.App.2d 156, 161.) The standard of proof is a preponderance of the evidence. (Evid. Code, §§ 115 and 500.) The 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.)

General Governing Provisions

2. 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.)

3. The Lanterman Act sets forth a regional center's obligations and responsibilities to provide services to individuals with developmental disabilities including the development of an IPP for each consumer. As the California Supreme Court explained in *Association for Retarded Citizens v. Department of Developmental Services* (1985) 38 Cal.3d 384, 388, the purpose of the Lanterman Act 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." Welfare and Institutions Code section 4646.5, subdivision (a)(8), provides the planning process for the IPP described in Welfare and Institutions Code section 4646 including a "schedule of regular periodic review and reevaluation to ascertain that planned services have been provided, that objectives have been fulfilled with the times specified, and that consumers and families are satisfied with the individual program plan and its implementation."

4. It is the intent of the Legislature that the provision of services to consumers and their families be effective in meeting the goals stated in the IPP, reflect the preferences and choices of the consumer, and reflect the cost-effective use of public resources. (Welf. & Inst. Code, §4646, subd. (a).)

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5. A regional center is required to secure services and supports that meet the needs of the consumer, as determined in the consumer's IPP. (Welf. & Inst. Code, § 4646, subd. (a)(1).) The determination of which services and supports are necessary for each consumer shall be made through the IPP process. "Services and supports" means "specialized services and supports or special adaptions of generic services and supports directed toward the alleviation of a developmental disability or toward the achievement and maintenance of an independent productive, and normal life." (Welf. & Inst. Code, § 4512, subd. (b).) The determination shall be based on the needs and preferences of the consumer or, when appropriate, the consumer's family, and shall include consideration of a range of service options proposed by the IPP participants, the effectiveness of each option in meeting the goals stated in the IPP, and the cost-effectiveness of each option. (Welf. & Inst. Code § 4512, subd. (b).)

6. When purchasing services and supports, regional centers shall (1) ensure they have conformed with their purchase of service policies; (2) utilize generic services when appropriate; and (3) utilize other sources of funding as listed in Welfare and Institutions Code section 4659.

Self-Determination Plan

7. Claimant participates in SDP, a voluntary program under the Lanterman Act designed to provide participants and their families, within an individual budget, increased flexibility and choice, and greater control over decisions, resources, and needed and desired services and supports than the Act's traditional model for delivery of services and supports. (Welf. & Inst. Code, § 4685.8, subd. (a).) The SDP allows participants and their families to have an annual budget for services and supports to meet the objectives of the participant's IPP. (Welf. & Inst. Code, § 4685.8, subd. (b).)

8. "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).) The SDP shall only fund services and supports that the federal Centers for Medicare and Medicaid Services determines are eligible for federal financial participation." (*Ibid.*)

9. An SDP participant must comply with the requirements of Welfare and Institutions Code section 4685.8. (Welf. & Inst. Code, § 4685.8, subd. (d)(3).) Among other things, the participant shall use the services and supports available within the SDP only when generic services and supports are not available; the participant shall only purchase services and supports necessary to implement their IPP and shall comply with all terms and conditions for participation in the SDP; and the participant shall manage SDP services and supports within the participant's individual budget. (Welf. & Inst. Code, § 4685.8, subd. (d)(3)(B), (C), (D).)

10. When developing the individual budget used for the SDP, the IPP team determines the services, supports, and goods necessary for each 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 Welfare & Institutions Code section 4648, subdivision (a)(6)(D). (Welf. & Inst. Code, § 4685. 8, subd. (b)(2)(H)(i).)

11. The IPP team shall determine the initial and any revised individual budget for the participant using the methodology specified in Welfare and Institutions Code section 4685.8, subdivision (m). "'Individual budget' means 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." (Welf. & Inst. Code, § 4685.8, subd. (c)(3).)

12. Welfare and Institutions Code section 4685.8, subdivision (n), provides that SDP participants may transfer funds between service codes and budget categories upon approval of the regional center or the participant's IPP team. The regional center shall provide timely authorizations to the participant's Financial Management Service.

13. Welfare and Institutions Code section 4659.10 provides that the Service Agency remains the "payer of last resort" meaning that funds in an Individual Budget for services and supports may not be disbursed by a participant if there is available funding from a source other than the Service Agency.

14. The Lanterman Act prohibits regional centers from funding experimental treatments or scientifically unproven services. Pursuant to Welfare and Institutions Code section 4648, subdivision (a)(17):

> Notwithstanding any other law or regulation, effective July 1, 2009, 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. Experimental treatments or therapeutic services include experimental medical or nutritional therapy when the use of the product for that purpose is not a general physician practice.

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Disposition

15. Claimant failed to meet his burden to establish by a preponderance of the evidence that RCOC must fund his PT. The preponderance of the evidence established that Claimant has not exhausted generic resources (i.e. Medi-Cal) to obtain PT. His primary care physician has referred him to a PT provider who has scheduled an evaluation to determine treatment. An evaluation is necessary before PT commences. RCOC, as the payor of last resort, is not required to fund PT that is available through generic resources. Understandably, Claimant is frustrated by the process. However, any provider of PT would need to conduct an evaluation before starting PT services. Claimant has already scheduled his evaluation with his Medi-Cal funded provider. Therefore, "interim funding" is not appropriate and not a practical solution to the delay Claimant is experiencing and would cause further delay.

16. Claimant failed to meet his burden to establish by a preponderance of the evidence that RCOC must fund his "non-medical bodywork massage". The preponderance of the evidence established that massage may be part of a therapeutic PT program or a course of chiropractic treatment. When it is part of a PT program or chiropractic treatment, as medical therapy, Claimant is obligated to exhaust generic resources such as Medi-Cal or private insurance to fund it. In this case, "non-medical body work massage" or massage that it is not part of medical treatment, is not eligible for RCOC funding because it would constitute an experimental treatment or therapeutic service, that has not been clinically determined or scientifically proven to be effective or safe. As such, RCOC may not fund it pursuant to Welfare and Institutions Code section 4648, subdivision (a)(17). Furthermore, Claimant failed to establish that "non-medical body work massage" is necessary to achieve any of the

goals set forth in Claimant's IPP or that it constitutes the type of specialized service or support contemplated by the Lanterman Act.

ORDER

Claimant's appeal is denied. RCOC is not required to fund Claimant's physical therapy or "non-medical bodywork massage".

DATE:

GLYNDA B. GOMEZ
Administrative Law Judge
Office of Administrative Hearings

BEFORE THE
DEPARTMENT OF DEVELOPMENTAL SERVICES
STATE OF CALIFORNIA

In the Matter of:

Claimant

OAH Case No. 2026010737

Vs.

DECISION BY THE DIRECTOR

Regional Center of Orange County

Respondent.

ORDER OF DECISION

On May 27, 2026, an Administrative Law Judge (ALJ) at the Office of Administrative Hearings (OAH) issued a Proposed Decision in this matter.

The Proposed Decision is adopted by the Department of Developmental Services. The Order of Decision, together with the Proposed Decision, constitute the Decision in this matter.

This is the final administrative Decision. Each party is bound by this Decision. Either party may request a reconsideration pursuant to Welfare and Institutions Code section 4712.5, subdivision (a)(1), within 15 days of receiving the Decision or appeal the Decision to a court of competent jurisdiction within 180 days of receiving the final Decision.

Attached is a fact sheet with information about what to do and expect after you receive this decision, and where to get help.

IT IS SO ORDERED on this day June 23, 2026.

Original Signed by
Katie Hornberger, Deputy Director
Division of Community Assistance and Resolutions

BEFORE THE
DEPARTMENT OF DEVELOPMENTAL SERVICES
STATE OF CALIFORNIA

In the Matter of:

Claimant

OAH Case No. **2026010737**

Vs.

RECONSIDERATION ORDER, DECISION BY THE DIRECTOR

Regional Center of Orange County,

Respondent.

RECONSIDERATION ORDER

On June 26, 2026, the Department of Developmental Services (Department) received claimant's application for reconsideration of a Final Decision issued by the Director on June 23, 2026.

The application for reconsideration is denied. A review of the Final Decision and record does not support a finding of factual or legal error that would change the Final Decision. The Final Decision remains effective as of June 23, 2026. All parties are bound by this Reconsideration Order and Final Decision.

Each party has the right to appeal the Final Decision to a court of competent jurisdiction within 180 days of receiving the Final Decision.

IT IS SO ORDERED on this day July 7, 2026.

Original signed by

Katie Hornberger
Deputy Director, Division of Community Assistance and Resolutions