

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

In the Matter of:

CLAIMANT,

and

NORTH LOS ANGELES COUNTY REGIONAL CENTER,

Service Agency.

DDS No. CS0034291

OAH No. 2026021030 (Primary)

and

DDS No. CS0034688

OAH No. 2026030468 (Secondary)

DECISION

Sandy Yu, Administrative Law Judge (ALJ), Office of Administrative Hearings (OAH), State of California, heard these consolidated matters on April 9, 2026, in Los Angeles, California.

Claimant's mother (Mother), an attorney, represented Claimant, who was not present at the hearing. Names are omitted to protect the privacy of Claimant and his family.

Paul Mejia, Due Process Officer, represented North Los Angeles County Regional Center (Service Agency).

The ALJ received testimony and documentary evidence. The record closed, and the matters were submitted for decision at the end of the hearing.

Pursuant to an order dated April 1, 2026, these two matters were consolidated for hearing. Because these matters concern the same claimant, this single decision is issued for both matters.

ISSUE

Should Service Agency terminate funding for Claimant's respite care services and PA services provided by someone who was not an Licensed Vocational Nurse (LVN).

Should Service Agency be ordered to withdraw its Notice of Action (NOA) proposing to terminate Claimant's non-licensed level of care after Service Agency decided not to proceed with its proposed action.

EVIDENCE RELIED UPON

In making this Decision, the ALJ relied on Service Agency's Exhibits 1 through 14 and Claimant's Exhibits A through G and I through L. The ALJ also relied on the

testimony of Service Agency's Consumer Services Supervisor Gerald Calderone and Mother.

FACTUAL FINDINGS

Parties and Jurisdiction

1. Claimant is a 19-year-old male who is eligible for regional center services based on his qualifying diagnosis of intellectual disability and epilepsy. Claimant has additional diagnoses for mild intermittent asthma, disordered amino-acid metabolism, and succinic semialdehyde dehydrogenase deficiency. Claimant lives with his parents and his sister.

2. Service Agency is a regional center designated by the Department of Developmental Services to provide funding for services and supports to persons with developmental disabilities under the Lanterman Act. (Welf. & Inst. Code, § 4500 et seq.)

3. On February 13, 2026, Service Agency issued a Notice of Action (February 13 NOA) proposing to terminate Claimant's non-licensed level of care for respite care services and PA services. On February 19, 2026 and March 11, 2026, Mother appealed the February 13 NOA. Although Service Agency submitted an earlier Notice of Action dated February 11, 2026 (February 11 NOA), the February 13 NOA is the operative NOA because it was properly served on Claimant, and Claimant appealed the February 13 NOA, not the February 11 NOA.

4. All jurisdictional requirements have been met.

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Claimant's Background

5. In October 2025, Claimant requested an additional 100 hours of respite care services per month, resulting in a total monthly allotment of 150 respite care service hours per month, because Claimant requires 24 hours per day supervision. In response to Claimant's request for increased respite care services, Service Agency authorized Claimant to receive PA services eight hours per day, seven days per week, and 50 hours a month of respite care services. Claimant's sister is his respite and PA services provider.

6. After receiving Claimant's request for 24 hours per day supervision, Service Agency conducted a nursing assessment to determine the level of respite care services and PA services Claimant requires. Jennifer Castaneda, a nurse consultant for Service Agency, prepared a report of her assessment. In her report dated February 10, 2026, Ms. Castaneda recommended an "LVN level of care" is required, due to Claimant's recent seizure in January 2026 and need for seizure medication. (Exh. 2, p. A26.) Service Agency offered Claimant's family the recommended level of respite care services and PA services, but the family declined Service Agency's offer and asked that Claimant's sister, who is not an LVN remain as Claimant's respite and PA services provider.

7. On February 19, 2026, Ms. Castaneda reviewed a letter dated February 10, 2026, from Claimant's doctor, Eric Curcio, M.D. According to Dr. Curcio, "[Claimant] requires 24 hours per day supervision as he presents a risk of elopement and inadvertent self-harm due to his intellectual delay and impaired judgement/impulse control, as well as to monitor for any seizure activity that could occur and intervene appropriately." (Exh. 11, p. A53.) After reviewing Dr. Curcio's letter, Ms. Castaneda determined "[n]on-licensed caregiver can be provided with a waiver letter and a

[s]eizure [a]ction plan outlining clear emergency procedure and step by step medication administration instructions.” (Exh. 2, p. A27.)

8. On February 23, 2026, Dr. Curcio provided a second letter, clarifying “while 24 hour care is required to prevent risk or falls or elopement, [Claimant] does not require around the clock skilled nursing care but rather mobility assistance and to activate 911 should any emergency occur.” (Exh. 4, p. A35.) After receiving Dr. Curcio’s second letter, Ms. Castaneda found that Dr. Curcio’s second letter was “sufficient to support the non-licensed level of care” for respite care services and PA services, and a waiver letter or seizure action plan is not required. (Exh. 2, p. A27.)

Claimant’s Services

GERALD CALDERONE

9. Mr. Calderone, Service Agency’s Consumer Services Supervisor, testified Service Agency initially issued a NOA informing Claimant of Service Agency’s determination to terminate the non-licensed level of care and to require LVN-level of care. Mr. Calderone testified that after Service Agency received Dr. Curcio’s second letter on February 23, 2026, Service Agency changed its determination and agreed that the non-licensed level of care is sufficient. Although Service Agency did not withdraw the NOAs in this case, Mr. Calderone explained that Service Agency can withdraw its NOA by informing consumers that Service Agency is no longer proceeding with its proposed action.

MOTHER

10. Mother testified she found Service Agency changed its determination from Ms. Castaneda’s nurse assessment addendum stating that Dr. Curcio’s February

27, 2026, letter was sufficient to support the non-licensed level of care. Mother contended that despite Service Agency's changed position, Service Agency attempted to resolve the matter through a proposed Notice of Resolution form that incorrectly framed the resolution as though Claimant was withdrawing his appeal request. Mother is requesting that, because Service Agency no longer maintains its position that LVN-only staffing is required for respite care services and PA services, Service Agency should withdraw the February 13 NOA, which gave rise to Claimant's appeals.

Analysis

11. Between issuing the February 13 NOA and the hearing, Service Agency changed its position and decided to continue funding the non-licensed level of care for respite care services and PA services. Therefore, there is no longer a dispute between the parties regarding the issue in the Service Agency's NOA and Claimant's appeals.

12. Service Agency did not withdraw its February 13 NOA, and Claimant did not withdraw his appeals. Both parties requested the ALJ determine whether Service Agency should be ordered to withdraw its NOA; however, the parties' requested issue does not involve a proposed reduction, termination, or change of service, or a denial of the initiation of a service or support.

LEGAL CONCLUSIONS

Burden and Standard of Proof

1. A party has the burden of proof as to each fact the existence or nonexistence of which is essential to the claim for relief or defense that he is

asserting.” In this case, Service Agency is proposing to change Claimant’s services, and thus NLACRC has the burden of proof that a change in services is justified. 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. Under the Lanterman Developmental Disabilities Services Act (Lanterman Act), the Legislature has created a comprehensive scheme 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.)

3. “Any applicant for or recipient of services, or authorized representative of the applicant or recipient, who is dissatisfied with a decision or action of the regional center . . . shall, upon filing a request within 60 days after notification of that decision or action, be afforded an opportunity for an informal meeting, a mediation, and a fair hearing.” (Welf. & Inst. Code, § 4710.5, subd. (a).) The fair hearing procedures in the Lanterman Act describe two types of notifications that a regional center must provide a consumer about a decision or action from which a request for a fair hearing can result. First, a regional center must send adequate notice when it proposes to “reduce, terminate, or change services set forth in an individual program plan (IPP)” or when a consumer is determined to be no longer eligible for services. (Welf. & Inst. Code, § 4710, subd. (a)(1)-(2).) Second, a regional center must send adequate notice when it decides “to deny the initiation of a service or support requested for inclusion in the [IPP].” (*Id.*, subd. (b).)

Analysis

4. As set forth in Factual Finding 11, there is no longer a dispute between the parties regarding whether Service Agency will fund respite care services and PA services provided by a non-licensed provider. Service Agency conceded it will do so, and therefore, Claimant's appeal is granted.

5. With respect to Claimant's request for Service Agency to withdraw its NOA, this request does not involve a proposed reduction, termination, or change of service, or a denial of the initiation of a service or support, and thus, is not within the scope of the fair hearing process under the Lanterman Act. This request was not part of Claimant's written appeals in this matter, and the Order below does not require Service Agency to withdraw its NOA.

ORDER

Claimant's appeal is granted in part. Service Agency should continue funding the non-licensed level of care for respite care services and PA services. The appeal is otherwise dismissed.

DATE:

SANDY YU

Administrative Law Judge

Office of Administrative Hearings

NOTICE

This is the final administrative decision. Each party is bound by this decision. Either party may request reconsideration pursuant to subdivision (b) of Welfare and Institutions Code section 4713 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.