BEFORE THE
DEPARTMENT OF DEVELOPMENTAL SERVICES
STATE OF CALIFORNIA

In the Matter of:

CLAIMANT

and

HARBOR REGIONAL CENTER,

Service Agency.

DDS No. CS0034176

OAH No. 2026021134

DECISION

Chrysanthy Kyin, Administrative Law Judge (ALJ), Office of Administrative Hearings (OAH), State of California, heard this matter by videoconference on July 21, 2026. This matter is related to two other appeals Claimant filed (OAH Case Number 2026021140 and OAH Case Number 2026031165), which were heard on the same day.

Claimant was represented by his mother (Mother). The names of Claimant and his family members are omitted to protect their privacy.

Latrina Fannin, Manager of Rights and Quality Assurance, represented Harbor Regional Center (Service Agency).

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

ISSUE

Whether Claimant should be granted 300 hours per month of respite care services.

EVIDENCE RELIED UPON

In reaching this decision, the ALJ relied upon Service Agency's Exhibits 1 through 16; the testimony of Josephine Cunningham, Service Agency Client Service Manager; Claimant's Exhibit B; and the testimony of Mother.

FACTUAL FINDINGS

Parties and Jurisdiction

1. Claimant is eight years old and lives with his mother, father, and older sister. Claimant is a regional center consumer based on a diagnosis of autism spectrum disorder (ASD). He previously received services from Frank D. Lanterman Regional Center (FDLRC). Claimant now lives within Service Agency's service catchment area and has been receiving services from Service Agency since June 1, 2025.

2. On December 17, 2025, Service Coordinator Karina Mauricio issued a Good Faith Belief letter (letter) documenting Service Agency's decision and the parties' agreement regarding Mother's request for 300 hours monthly of respite services. (Ex.

3.) In the letter, Service Agency and Mother agreed that Service Agency would fund 40 hours a month of respite care services to provide Claimant's parents with a temporary break from caring for his needs. (*Ibid.*)

3. The letter stated that if Mother did not agree with the Service Agency's decision, she could request the Service Agency issue a Notice of Action or could appeal the decision. (Ex. 3.) Claimant's Individual Program Plan (IPP) dated April 16, 2026, states that Service Agency provided Mother with a Notice of Action when her request for 300 hours monthly respite care was denied. The IPP also noted that "[i]nstead, family was assessed for a total of 50 [hours] monthly [or] 150 [hours] quarterly of respite care" and that the family agreed with this service. (Ex. 7, p. A31.) At hearing, the Notice of Action regarding this appeal was not presented.

4. On February 13, 2026, Claimant filed an Appeal Request requesting 300 hours of respite. In the Appeal Request, Claimant stated he was approved for 50 hours per month of respite while receiving services from FDLRC. Claimant asserted he needed 300 hours per month of respite because of an incident at Claimant's school in which he climbed on the roof fully unclothed and was sent home "never to return to school for 'safety' reasons." (Ex. 4, p. A17.) This hearing followed.

Background

5. Claimant lives with his mother, father, and older sister. Claimant displays multiple skill deficits in communication, social, self-care, and adaptive skills. (Ex. 7, p. A32.) He exhibits maladaptive behavior consisting of tantrums, noncompliance, climbing, and elopement. (*Ibid.*) These behaviors make it challenging for Claimant to interact with his family members and peers and, according to his IPP, create a dangerous environment for himself and others. (*Ibid.*)

6. Claimant does not attend in-person schooling. He was enrolled in the second grade at his local elementary school; however, after the incident described above, the school determined that Claimant was a significant safety risk while on campus and referred him to homeschooling. (Ex. 9, p. A110.) From February 27, 2026, to July 15, 2026, Claimant received homeschooling from Carlson Home-Hospital School for one to two hours per week. Claimant has since discontinued homeschooling. According to Mother, the school district has been unable to propose a viable plan to return Claimant to in-person schooling.

7. On April 16, 2026, Service Agency completed Claimant's IPP. (Ex. 7.) The IPP identified the following goals: increase Claimant's communication by using more words when speaking, improve his writing, return to in-person school, and increase Claimant's self-sufficiency. (Ex. 7, p. A27.)

8. On April 17, 2026, Service Agency assigned a new Service Coordinator and case management team to assist Claimant in response to Mother's requests. On April 22, 2026, Service Agency completed a review of Claimant's services, current functioning, assessed needs, and IPP objectives to confirm that the authorized services continued to appropriately address Claimant's needs in response to the new case assignment.

9. On June 15, 2026, an Addendum to Claimant's IPP (Addendum) was completed. (Ex. 8.) According to the IPP and Addendum, Service Agency funds the following services for Claimant: 1) 270 hours per quarter or 90 hours per month of respite care services; 2) 115 hours per month of personal assistance; 3) 10 hours per month of Tutor Me education services; 4) Crisis Prevention Services; 5) participation at Jaguar Rose Social Club; 6) 35 hours per month of floor time therapy and transportation services; 7) YMCA swim lessons; and 8) Mother's attendance at a TACA

parent conference. Of the 115 hours per month of personal assistance, Service Agency allotted five hours each day to assist Claimant while he does not attend school.

10. Claimant requires assistance with all activities of daily living and constant supervision to ensure his safety. He qualifies for 204 hours monthly of In-Home Supportive Services (IHSS), which Mother provides. (Ex. 7, p. A.31.) According to the IPP, neither of Claimant's parents is currently employed. Father is elderly and ill, and Mother is Father's caregiver. (Ex. 7, p. A44.)

11. As Claimant's IHSS provider, Mother supervises Claimant throughout the day and night. Mother requires respite care services to allow her to complete daily household tasks, run errands, attend her own appointments, and maintain her emotional and psychological well-being. According to Mother, even when Claimant is receiving services from his therapist, she is unable to take a break. Mother explained Claimant is aggressive and combative during sessions, and his therapist looks to Mother to intervene and deescalate the situation. Mother contends she and Claimant's father cannot provide the supervision Claimant requires because Claimant is awake 24 hours a day.

Request for Additional Respite and Service Agency Response

12. Claimant formally requested 300 hours of respite care services each month. Currently, Claimant receives 90 hours of respite care per month. Mother maintained the funded hours do not allow her to rest or attend to her personal needs. Mother contended that Service Agency should address Claimant's supervision needs proactively by exploring and recommending alternative service arrangements, such as two-to-one supervision.

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13. Mother expressed that providing Claimant constant care has caused her to feel exhausted and overwhelmed. She believes the situation is difficult because she is uneasy, anxious, and afraid. Mother did not provide any details regarding the basis of her fear.

14. Client Service Manager Josephina Cunningham has been assigned to oversee Claimant's case. At hearing, Ms. Cunningham contended that respite care service hours are intended to provide caregivers with a wellness break from caring for Claimant, and personal assistance hours are an extra set of hands to assist Claimant. Ms. Cunningham maintained that Service Agency funded an additional 25 hours per week of personal assistance to address the five hours per day Claimant would otherwise have been attending school. Therefore, in Service Agency's view, Claimant's need for supervision while he is at home during school hours has been met.

15. At hearing, Service Agency presented a chart of Claimant's weekly schedule, and Mother agreed the chart was accurate. According to the chart, Claimant receives assistance throughout the day and night through a combination of IHSS hours, personal assistance hours, respite service hours, Applied Behavior Analysis (ABA), tutoring, summer camp, floor time, social club, and YMCA swim lessons. (Ex. 16.) Ms. Cunningham explained that the services, supports, and supervision collectively account for 24 hours of paid support and that adding any additional respite hours would result in a duplication of services.

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LEGAL CONCLUSIONS

Burden and Standard of Proof

1. The party asserting a claim generally has the burden of proof in administrative proceedings. (See, e.g., *Hughes v. Board of Architectural Examiners* (1998) 17 Cal.4th 763, 789, fn. 9.) Here, Claimant seeks 300 hours of respite care services a month. Claimant therefore has the burden of proving by a preponderance of the evidence that he is entitled to the requested services. (See Evid. Code, § 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.) Claimant has not met his burden here.

Lanterman Act

2. The Lanterman Act requires an IPP to be developed and implemented for each person who is eligible for regional center services. (Welf. & Inst. Code, § 4646.) The IPP includes the consumer's goals and objectives as well as required services and supports. (Welf. & Inst. Code, §§ 4646.5 & 4648.) The services and supports provided or secured by the regional center are to respect and support the family's decision making, be flexible and creative to meet the claimant's unique and individual needs over time, recognize family strengths, natural supports, and existing community resources, and focus on the entire family. (Welf. & Inst. Code, § 4685, subd. (b).)

3. The planning process for an IPP comprises "[g]athering 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 assessment includes

information from the consumer, the consumer's family, the providers of services and supports, and other agencies. Based on the assessments, the IPP identifies the type and number of services and supports purchased from the regional center or obtained from generic agencies or other resources to achieve the IPP goals and objectives, and the service providers responsible for attaining such goals and objectives. (Welf. & Inst. Code, § 4646.5, subd. (a)(5).) The purpose of the assessments is to ensure the requested services meet the consumer's needs and are provided in a cost-efficient manner.

4. A regional center has discretion to determine which services it should purchase to best accomplish all or any part of a consumer's IPP. (Welf. & Inst. Code, § 4648.) Services are purchased based on a consumer's needs, progress, and circumstances, as well as consideration of a regional center's service policies, resources, and professional judgment as to how the IPP can best be implemented. (Welf. & Inst. Code, §§ 4646, 4648, 4624, 4630, subd. (b), and 4651; *Williams v. Macomber* (1990) 226 Cal.App.3d 225, 233.)

5. Respite is a service and support offered under the Lanterman Act. (Welf. & Inst. Code, § 4512, subd. (b).) Respite services are "designed to assist family members in maintaining the client at home, providing appropriate care and supervision to the client when the family is not at home, relieving family members from their constant responsibilities, and attending to the client's basic self-care needs, activities of daily living, and usual daily routines." (Welf. & Inst. Code, § 4690.2, subd. (a).) According to Service Agency's Respite Care Policy, respite services include non-medical care and supervision of the client that is intended to be periodic, as opposed to continuous. Respite services are time-limited and are not expected to meet a

family's total need for relief from the ongoing care of a disabled family member. (Ex. 11, p. A135)

6. Personal assistance services are also offered under the Lanterman Act. (Welf. & Inst. Code, § 4512, subd. (b).) Personal assistance/care services are those "supports needed to provide an individual with appropriate and direct care or supervision in their preferred home and community settings." (Ex. 14, p. A140.) Personal assistants assist consumers who require support in activities of daily living, including bathing, grooming, dressing, toileting, meal preparation, feeding, and protective supervision.

Disposition

7. It is undisputed that Claimant requires 24 hours of supervision and care. Because Claimant was unable to attend school in-person, Service Agency authorized and funded an additional 25 hours of personal assistance service hours per week to supervise Claimant at home during what would be school hours. Service Agency determined that an increase in Claimant's personal assistance service hours combined with Claimant's IHSS allotment as well as already-funded services address Claimant's supervision needs. Although Mother may find it difficult to take a break while Claimant's therapist is present, Claimant also receives personal assistance hours to assist him with his daily living activities. The assigned personal assistance provider is responsible for supervising and caring for Claimant. Thus, while the personal assistant provider is present, Mother is not barred from using that time to care for herself. Service Agency does not expect, and the law does not require a parent to be present when Claimant's personal assistance service provider is assisting Claimant. Further, Mother agrees that the supervision, services, and supports Claimant receives are accurately reflected in his weekly schedule. That schedule shows Claimant already

receives 24-hour paid support, leaving no remaining time in the week for additional respite services. While Mother suggested that Service Agency should take proactive steps to address Claimant's need for additional supervision at home, Mother did not offer evidence that Claimant requires the care of two providers at one time.

8. Under these circumstances, Claimant failed to prove by a preponderance of the evidence that he is entitled to 300 hours of respite services each month. Claimant's appeal therefore is denied.

ORDER

Claimant's appeal is denied.

DATE:

CHRYSANTHY KYIN
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.