

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

In the Matter of:

CLAIMANT

and

EASTERN LOS ANGELES REGIONAL CENTER,

Service Agency.

DDS No. CS0034381

OAH No. 2026021158

PROPOSED DECISION

Glynda B. Gomez, Administrative Law Judge (ALJ), Office of Administrative Hearings (OAH), State of California, heard this matter on April 21, 2026, in Alhambra, California.

Claimant was represented by his Mother who is also his conservator. Claimant was not present.

Victor Mercado, Appeals Specialist, represented Eastern Los Angeles Regional Center (ELARC or Service Agency).

The proceedings were translated into Spanish by a certified Spanish language interpreter.

Exhibits were redacted to protect the confidentiality of previous mediations and settlement agreements.

The record was closed, and the matter was submitted for decision on April 21, 2026.

ISSUE

Must Service Agency fund separate speech and language services focusing on Augmentative and Alternative Communication (AAC) for Claimant.

EVIDENCE RELIED UPON

Exhibits 1-12 and A; Testimony of Mother and Maria Canas

FACTUAL FINDINGS

Jurisdictional and Background Matters

1. Claimant, 29 years old, is eligible for regional center services based upon his diagnosis of Autism and Intellectual Disability. Claimant transitioned from the traditional model of services to the Self Determination Program (SDP) shortly before the administrative hearing on a date not established by the evidence. Claimant's SDP budget and spending plan are not in evidence.

2. Claimant is non-verbal. He uses an AAC device for communication. Specifically, Claimant uses an iPad with Proloquo2go for his communication needs. Claimant requested that ELARC fund Adaptive Skills Training (AST) and training by a speech and language pathologist on AAC. Instead, ELARC has agreed to fund AST with a provider who is competent to use AAC with Claimant. (Ex. A; Testimony of Mother and Canas.)

3. Claimant's Individual Program Plan (IPP) dated January 14, 2025, and amended July 8, 2025, provides that:

[Claimant] is non-verbal [and] uses [an] iPad with Proloquo2go program to communicate. Claimant is able to express his needs and wants using technology, sounds, and noises, and started receiving speech therapy classes. He needs to be reminded when to utilize it. When he participates on hikes or walks in the community, he is asked to leave it at home. If he has it, he wishes to play the games on it and not participate in the goals for the day. On days he does grocery shopping he needs it to communicate with others. He does need reminders to use so he is understood especially when he needs to ask where something is. He tends to prefer to utter the word or point when he is not understood and needs to be reminded to use his communication device. His speech is only understood by those who know him with his communication device and Proloquo2Go application. He communicates by nodding, thumbs up and down. He can become excited at times and

make sounds and noises with no real enunciation of words.
He does not maintain friendships or initiate conversations with others. He is ambulatory and uses a few simple words.
(Ex. 3, p. A14.)

4. On February 24, 2023, Claimant received a Notice of Action from his insurer Alta Med, denying speech therapy services. Claimant provided the denial to ELARC. (Ex. 12.) Claimant has the same insurance currently. There is no reason to believe that Claimant's insurer has changed its position on denial of coverage for speech therapy services. (Testimony of Mother.) Further requests to the insurer for the same service are most likely futile.

5. As a result of various settlements and a prior hearing, Claimant was provided 28 sessions of speech and language therapy funded by the regional center. The sessions ended in June of 2025. (Exs. A; 4, 7, and 9; testimony of Mother and Canas.)

6. A Speech-Language Pathology Discharge Summary (Discharge summary) dated June 2, 2025 (Ex. 6) summarized Claimant's progress in speech therapy, goals and recommendations. However, ELARC did not provide any competent witness to testify about the Discharge summary. The Discharge summary states that five goals were developed and Claimant met each goal by the end of his 28 sessions. The goals were:

- Use any modality to communicate to make at least one spontaneous comment during a preferred activity.
- Produce a simple sentence with minimal verbal prompting that incorporate[s] adequate morphosyntax in 2/4 opportunities.

- Receive standardized testing to determine receptive abilities and augmentative and alternative communication capacity over the course of the treatment cycle.
- Answer a simple “what’ question with minimal cues using a simple sentence in ¾ opportunities.
- Identify objects based on description or function with minimal gesturing prompting in ¾ opportunities.

7. Although the Discharge summary references the existence of standardized testing, no such testing was introduced into evidence at the hearing. According to the Discharge summary, the therapist recommended that Claimant “transition[] to a setting where [a]ugmentative and alternative communication skills can be generalized and all areas of AAC competency (strategic, linguistic, operational and social) can be addressed. Ideally, a program that offers opportunities for community integration with direct linguistic teaching.” (Ex. 6.)

8. On February 9, 2026, ELARC issued a Notice of Action (NOA) denying Claimant’s request to fund “Speech and Language Services” because there are “Generic Resources, including health insurance, must be explored prior to requesting ELARC funding as regional centers are payee of last resort. If funding for speech and language services is denied by your health insurance. ELARC will need a copy of the formal denial from your insurance in order to consider your funding request.” (Ex. 2.)

9. Mother testified that Claimant needs AAC training from a knowledgeable speech and language pathologist. According to Mother, the ELARC funded speech and language services provider was not familiar or proficient with AAC and did not address Claimant’s needs. Mother is concerned about Claimant’s lack of communication skills

and his need for AAC instruction. Mother believes that an AST provider familiar with AAC is needed for his AST services, but is not sufficient to meet his needs for AAC instruction. According to Mother's testimony, no one has evaluated Claimant's needs and she wants him assessed for communication needs.

LEGAL CONCLUSIONS

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.)

2. The Lanterman Act sets forth a regional center's obligations and responsibilities to provide services to individuals with developmental disabilities. 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."

3. 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 individual

program plan, reflect the preferences and choices of the consumer, and reflect the cost-effective use of public resources. (Welf. & Inst. Code, §4646, subd. (a).)

4. 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 adaptations 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).)

5. Claimant participates in SDP. The SDP is 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).)

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.

7. Welfare and Institutions Code section 4685.8 governs regional center consumers participating in the SDP. The purpose of the SDP is to provide consumers (also referred to as participants) and their families, within an individual annual budget, increased flexibility and choice, and greater control over decisions, resources, and needed and desired services and supports to implement their IPPs. (*Id.* at subd. (a).)

8. The Lanterman Act contemplates that the provision of services shall be a mutual effort by and between regional centers and the consumer and the consumer's family. The foundation of this mutual effort is the development of a consumer's IPP. As explained in Welfare and Institutions Code section 4646, subdivision (d):

Individual program plans shall be prepared jointly by the planning team. Decisions concerning the consumer's goals, objectives, and services and supports that will be included in the consumer's individual program plan and purchased by the regional center or obtained from generic agencies shall be made by agreement between the regional center representative and the consumer, or if appropriate, the parents, legal guardian, conservator, or authorized representative at the meeting.

9. "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.*)

10. 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).)

11. 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).)

12. 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).) For a participant who is a current consumer of the regional center, their individual budget shall be the total amount of the most recently available 12 months of purchase of service expenditures for the participant. (Welf. & Inst. Code, § 4685.8, subd. (m)(1)(A)(i).)

13. 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.

14. 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.

15. 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 shall include: "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."

16. Claimant is a non-verbal consumer dependent upon AAC. There was no evidence that his need for training on AAC has been evaluated nor is there any evidence that he has been sufficiently trained on the AAC to meet his communication needs. The evidence established that Claimant received 28 sessions of speech and language therapy focused on speech. Basic goals were drafted for his speech therapy and those goals were met. The Discharge summary from those speech sessions indicated that Claimant needed an environment where "[a]ugmentative and alternative communication skills can be generalized and all areas of AAC competency (strategic, linguistic, operational and social) can be addressed. Ideally, a program that offers opportunities for community integration with direct linguistic teaching." (Ex. 6.) ELARC's offer of AST with staff who are capable of using AAC is appropriate, but not

sufficient to meet the recommendations of the speech and language discharge summary. On this record, there is not sufficient information to determine Claimant's needs for further AAC training or speech and language therapy. In order to determine those needs a comprehensive assessment of Claimant's communication baseline and needs must be made.

17. ELARC's contention that Claimant must use generic resources in the form of health insurance or provide an additional denial from health insurance fails. Claimant's health insurance has already denied such services and ELARC has been provided with appropriate documentation. There is no reason to believe that further requests will result in any change of circumstances and such requests are likely futile and unnecessary under the limited facts of this case.

18. In order to truly understand Claimant's needs, a comprehensive evaluation as described above must be conducted. After the completion of the evaluation, the IPP team must meet to discuss the results and determine goals, objectives and appropriate services and funding mechanisms to meet those goals, including generic resources, to obtain the necessary services, if any. At this time, it is premature to require anything other than an assessment. After assessment, the IPP process set forth in the Lanterman Act must be followed. The fair hearing process is not a substitute for the IPP and SDP process requirements of the Lanterman Act.

ORDER

1. ELARC is ordered to fund a comprehensive assessment of Claimant's communication needs within 60 days of the effective date of this order.

2. Within 30 days of completion of the assessment, the IPP team shall meet to discuss the assessment results and amendments, if any, to Claimant's IPP and SDP budget based on the assessment results.

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. 2026021158

Vs.

DECISION BY THE DIRECTOR

East Los Angeles Regional Center

Respondent.

ORDER OF DECISION

On April 30, 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 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 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 May 26, 2026.

Original signed by

Katie Hornberger, Deputy Director
Division of Community Assistance and Resolutions