

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

In the Matter of:

CLAIMANT

and

REGIONAL CENTER OF ORANGE COUNTY

DDS No. CS0035499

OAH No. 2026040126

DECISION

Administrative Law Judge Deena R. Ghaly, Office of Administrative Hearings (OAH), State of California, serving as hearing officer, heard this matter on April 30 and May 11, 2026, at the offices of the Regional Center of Orange County (RCOC) in Tustin, California.

Claimant's mother (Mother) represented Claimant. Claimant's father was also present via videoconference. Fair Hearing and Mediations Manager Ublester Penalzoza represented the Regional Center of Orange County (RCOC).

Documentary evidence and testimony were received. The record closed and the matter was submitted for decision on May 11, 2026.

ISSUES

At the commencement of the hearing, the parties agreed the issues to be addressed in this proceeding were:

(i) Whether five hours of the respite time currently allocated for Claimant may be reallocated to personal assistance services;

(ii) Whether RCOC shall pay for interim or gap Applied Behavior Analysis (ABA) services pending activation of such services by a generic resource, Claimant's insurance carriers, and if so, whether gap ABA services funded by Mother should be reimbursed to her; and

(iii) Whether Claimant should receive RCOC-funded community activity support services or additional personal assistance services to assist him to safely participate in his community.

EVIDENCE RELIED UPON

In reaching this decision, the ALJ relied upon Claimant's Exhibits A, B, E through L, R, V, Y, Z, AA through DD, FF, GG, and HH; RCOC Exhibits 1 through 11; and the testimony of Susanne Smith Roley, Deborah Furuyama, Mother, Erica Estrada, Jennifer Kennedy, and Christina Genter.

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FACTUAL FINDINGS

1. Claimant is a seven-year-old boy receiving regional center services based on his diagnosis of autism spectrum disorder (ASD). He experiences communication difficulties, social limitations, sensory sensitivities, and difficulty with transitions. Claimant is prone to physical and emotional outbursts and can be violent or self-injurious when he is dysregulated. Claimant also suffers from hypotonia (low muscle tone) and asthma.

2. Claimant has four siblings. His parents are separated and he divides his time with Mother and his father pursuant to a custody schedule. Mother is most often with Claimant and is his In-Home Supportive Services (IHSS) caretaker.

3. Claimant's most recent Individual Program Plan (IPP) notes that he needs supervision at all times and has no sense of fear. (Exh. 3, p. A15.) It also identifies aspects of his behavior, including elopement at the rate of as much as 150 times over a period of 27 days and noncompliant behavior such as dropping to the floor and screaming and yelling when dysregulated. (Exh. 3, p. A18.) Under a subheading, "Assessed Needs," the IPP states "[Claimant] can become physically aggressive at least 2x per month where he will hit, scratch, kick his mother" (Exh. 3, p. A24.)

4. A goal identified in the IPP is to reduce Claimant's emotional outbursts from 10 to five times per day. (Exh. 3, p. A22.) Despite these challenges, the IPP also reflects that providing Claimant with opportunities to participate in community outings and activities is a priority. (Exh. 3, p. A15.)

5. Claimant has received ABA services for most of his life. Two ABA providers, the Children's Learning Connection and the Center for Autism-Related

Disorders, both recommended that Claimant receive 20 hours of ABA therapy per week. (See Exhs D & E.) In recent months, however, his ABA sessions have been delayed while the two insurance carriers currently providing his health coverage are undertaking assessments and are attempting to find an available provider from their limited in-network resources.

6. Mother became concerned about the interruption to Claimant's ABA services and, beginning March 23, 2026, she has been paying for ABA services on her own. The provider, Today's ABA, is not in-network with Claimant's insurance carriers and is not vendored by RCOC.

7. During meetings leading to the development of Claimant's IPP, Mother requested funding for services to support Claimant and Mother in caring for him. Among the requests were that RCOC fund additional personnel to be with her when she took Claimant out in the community. She also requested funding for "gap" ABA services and reimbursement for expenses she incurred in securing ABA services for Claimant pending insurance approval.

8. In a Notice of Action dated April 1, 2026, the RCOC denied Mother's request for additional personal assistance services, writing that such additional assistance would duplicate or overlap with generic services already being provided such as In-Home Supportive Services (IHSS)-funded care provided by Mother, as well as improperly supplant the natural supports all parents are expected to provide to their minor children. (Exh. 2, p. A9.) Regarding the request for gap ABA funding and reimbursement of ABA services paid for by Mother, the Notice of Action letter requested written documentation of the delays occurring because of the insurance company's ongoing functional behavior assessment and otherwise denied funding of gap ABA noting that Today's ABA is not an ABA vendor. (*Ibid.*)

9. Mother testified at the hearing. She stated that Claimant has grown bigger, stronger, and more apt to elope and engage in other dangerous behavior. Leaving the home with him is difficult and he can only be safely managed if at least one other adult besides her can be there with Mother who, as his primary caretaker is the one who usually takes him out in the community.

10. Because of Claimant's increased needs for supervision, Mother is requesting reallocating five hours of currently funded respite care to personal assistance hours. She is also requesting an indeterminate number of hours of additional assistance. Mother's preference is for this additional assistance to be in the form of Community Activity Support Services (CASS) as opposed to personal assistance. As Mother understands it, CASS is intended to not just supervise Claimant when he is out in the community but also to help him develop skills so that he can better control his behavior and participate more fully in community activities. Mother further stated that there are approximately 147 hours per month when Claimant is neither at school nor is there any other assistance for Mother should she attempt to take him into the community. Given the extreme challenges Claimant is currently posing, Mother stated she would accept additional personal assistance hours in lieu of CASS. Mother did not argue or present any evidence to the effect that she is seeking additional assistance for all 147 hours of unprogrammed time.

11. Regarding the status of Claimant's ABA services, Mother stated she has repeatedly followed up with the insurance providers regarding their pending assessment but has not been able to hasten their processes. She did not present any written documentation chronicling her communications with the insurance carriers or their responses.

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12. Mother presented two witnesses who corroborated her testimony about the need to have more than one adult present when Claimant is out in the community. The first was Susanne Smith Roley, who has been an occupational therapist for 50 years and completed an occupational therapy evaluation of Claimant in 2024. According to Ms. Roley, Claimant has profound deficits particularly in communication and speech and this leads him to experience frustration, anxiety and exhaustion, all resulting in intense dysregulation which in turn manifests in dangerous and destructive behaviors.

13. Ms. Roley recommends for Claimant continued and expanded exposure to a wide range of community-based experiences, particularly sports such as swimming, horseback riding, and bicycling which would help him build physical and mental stamina while acclimating him to interacting with others. Ms. Roley agrees, however, that without appropriate supervision and assistance, Claimant could be a danger to himself while out in the community. Like Mother, she believes the kind of community supports that help Claimant know how to act and control himself while out, rather than just provide supervision, is what is required to both keep Claimant safe and promote learning and growing so he can become increasingly regulated.

14. Deborah Furuyama is a close family friend and has known Claimant nearly his entire life. She is one of the few adults outside the caretakers and family members who has been alone with Claimant. Ms. Furuyama testified at the hearing and stated that, despite her long history with Claimant, and even with the assistance of another adult, it is extremely difficult to care for Claimant and keep him safe. She described his prodigious capacity to circumvent safety measures such as locked doors and his ability to move quickly and into dangerous situations.

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15. Written reports from providers involved in Claimant's care and education also support the difficulty in keeping him safe due to his behavior. A recent progress report from Verbal Behavior Associates, a contractor who provides behavioral support for Claimant at school reflects that Claimant engages in as many as four elopements per hour though the incidents decreased over the short period the report addressed. (See Exh. A, p.B2.) An April 28, 2026 report from Claimant's current behavioral therapist at Today's ABA, Daniela Orozco demonstrates the challenges involved in caring for him even by professionals whose work is to care for, and teach children with ASD:

Upon arrival at the location, [Claimant] exhibited immediate and high-speed elopement (bolting) toward an unsecured area as soon as he exited the vehicle. Despite the presence of two adults – myself and another therapist, Hillary – [Claimant] was able to distance himself quickly. It required both of us to physically pursue and intercept him to prevent injury and ensure he did not enter the path of traffic.

Once we successfully guided [Claimant] into the building, he engaged in "flopping" behavior, dropping his entire body weight to the floor. This is common manifestation of his sensory dysregulation. Due to [Claimant's] physical size and the nature of his hypotonia, he became dead-weight and impossible to move safely by a single caretaker when in this state.

(Exh. GG, p. B542.)

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16. RCOC Area Supervisor Erica Estrada testified at the hearing where she addressed whether RCOC could provide additional assistance for Claimant. According to Ms. Estrada, there is insufficient evidence to support a finding that Claimant requires more than one adult to keep him safe in the community though she acknowledged Claimant's needs are severe and that he would not be able to participate in most activities, including attending school, without dedicated supervision.

17. RCOC Area Manager Jennifer Kennedy testified at the hearing where she addressed Mother's request for CASS. Ms. Kennedy stated CASS is only available for adult regional center consumers as signified by the providers listed under the Service Code 063. According to Ms. Kennedy, all vendors listed under that code only work with adults. In rebuttal testimony, Mother stated she had called each of the Service Code 063 vendors and personnel at one vendor, Autism Behavior Services, Inc., informed her that it does provide CASS for minors. Mother did not present any other evidence in support of this assertion.

18. During her testimony, Ms. Kennedy also addressed the request for gap ABA services. According to Ms. Kennedy, the insurance company's acceptance of its obligation to provide ABA services is understood by the RCOC to mean generic resources are available and therefore, because regional centers are the payor of last resort, it would be improper for it to fund ABA services under these circumstances.

19. Board Certified Behavioral Analyst Christina Genter testified at the hearing. Ms. Genter disagreed that CASS can be used to teach social or adaptive skills for consumers as they engage in community activities, arguing these type of training is strictly in the province of ABA services. Moreover, Ms. Genter opined that several months delay while the insurance company undergoes its evaluation and finds an in-

network provider is standard practice and not a cause for RCOC intervention. In fact, transitioning to another ABA provider by the RCOC would not necessarily take less time than the insurance company's ongoing review and search for an available in-network provider.

LEGAL CONCLUSIONS

1. Under the Lanterman Developmental Disabilities Services (Lanterman) Act (Welf. & Inst. Code, § 4500 et seq.) (all further statutory cites are to the Welfare and Institutions Code unless otherwise indicated), the State of California takes responsibility to provide service and supports for developmentally disabled individuals and their families. (§ 4501.) The state agency charged with implementing the Lanterman Act, the Department of Developmental Services (DDS), is authorized to contract with regional centers to provide developmentally disabled individuals with access to the services and supports best suited to them throughout their lifetimes.

2. Regional centers are "charged with providing developmentally disabled persons with access to the facilities and services best suited to them throughout their life" and with determining "the manner which those services are to be rendered." (*Assoc. of Retarded Citizens v. Dep't of Developmental Services* (1985) 38 Cal.3d. 384, 389.)

3. Regional centers establish suitable services and supports for disabled individuals they serve through the IPP process. Among other things, the IPP must set forth goals and objectives for the client, contain provisions for the acquisition of services based upon the client's developmental needs and the effectiveness of the services selected to assist the client in achieving the agreed-upon goals, contain a

statement of time-limited objectives for improving the client's situation, and reflect the client's particular desires and preferences. (§§ 4512, subd. (b), 4646, 4646.5, subd. (a), 4648, subd. (a)(6)(E).)

4. When there are disagreements between a regional center and a client, including during the IPP process, the Lanterman Act provides procedures for redress. An administrative hearing to determine the rights and obligations of the parties is available under the Lanterman Act for consumers to appeal a contrary regional center decision, including requesting a fair hearing. (§§ 4700-4717.)

5. The standard of proof for administrative adjudications is preponderance of the evidence because no law or statute, including the Lanterman Act, requires otherwise. (Evid. Code, § 115.) This 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.) The burden of proof is on the moving party. (Evid. Code, § 500.)

6. As Claimant is seeking new services in the form of additional personal assistance and community activity support services and gap ABA services, including reimbursement to Mother for payments she has made pending approval for these services by Claimant's insurance providers. Claimant bears the burden of proof in this matter and must meet that burden with the preponderance of the evidence.

7. Claimant has met his burden to establish the right and need for additional personal services. The preponderance of the evidence, including multiple representations in Claimant's IPP, established Claimant's behavior, such as a propensity to elope and his capacity to engage in violent and difficult to control behavior during virtually any kind of outing or activity, including his IPP-provided recreational activities

of music and swimming lessons require the requested services. Thus, Claimant has established his right to reallocate five hours of RCOC-funded respite care to the same number of hours of personal services assistance.

8. Regarding Claimant's request for CASS or additional personal assistance, Mother has demonstrated a compelling case for RCOC to fund services intended to ensure that more than one adult is present with Claimant at all times when he is out in the community but Claimant has not met the standard of proof in demonstrating the hours should be provided through CASS. Mother's limited evidence about calling the vendors listed under the CASS service code is not enough to override RCOC evidence that these services are only available to adult consumers.

9. Mother's only evidence regarding the specific number of hours of additional assistance needs, that there are 147 hours per month of time without assistance, is too vague to support an order of additional hours even if those additional hours are personal service assistance hours. Nothing in the record suggests Mother is requesting that personal assistance be funded for all 147 hours. Without a specific, workable schedule demonstrating reasonable opportunity for Claimant to participate in community activities where additional personal services hours would be used, there is insufficient evidence for granting this request.

10. Given the demonstrable need for additional services, the parties are encouraged to revisit this issue and determine whether there is a workable solution that addresses Claimant's and family's needs for additional supports. In the absence of any such agreement, nothing in this Decision is intended to prevent Mother from seeking these services through another administrative adjudication.

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11. Claimant established his need for ABA services; however, without more substantial evidence regarding the status of the private insurance company's evaluation and search for available ABA services, it is impossible to know whether the provision of the services is imminent or still weeks or months away. It is also impossible to know whether any ABA services arranged by RCOC would be scheduled any sooner than the services currently pending or whether any such commencement of services would conflict or interfere with the effective commencement of the services covered by the insurance provider. Under these circumstances, the request for RCOC to fund gap ABA services cannot be granted.

12. Lanterman Act provisions and related regulation do not support Claimant's request for reimbursement for ABA services for which Mother has paid. Unless a consumer is enrolled in an alternate avenue for regional center services, the Self-Determination Program, a circumstance not applicable here, regional centers are required to limit payments to vendorized providers. (See § 4648, subd. (a)(3)(A).) RCOC has represented that Claimant's current ABA provider is not vendorized and nothing in the record contradicts that. Moreover, applicable regulations provide that regional centers can only reimburse for services for emergency services. (Cal. Code of Regs, title 17, § 50612.) Although Claimant established ABA services are necessary, their temporary interruption does not constitute an emergency, as that term is commonly understood.

ORDER

1. Claimant shall be permitted to reallocate five hours of currently RCOC funded respite care toward personal care services. Claimant's request for RCOC funding for additional Cass or personal assistance hours is denied without prejudice.

2. Claimant's request to have RCOC fund gap ABA services pending private insurance provider's assessment is denied.

3. Claimant's request for reimbursement of fees for ABA services which have been paid for by Mother is denied.

DATE:

DEENA R. GHALY

Administrative Law Judge

Office of Administrative Hearings

NOTICE

This is the final administrative decision; both parties are bound by this decision. Either party may appeal this decision to a court of competent jurisdiction within 90 days. This is the final administrative decision. Each party is bound by this decision. Either party may request a reconsideration under Welfare and Institutions Code section 4713, subdivision (b), 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.

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

In the Matter of:

CLAIMANT

and

REGIONAL CENTER OF ORANGE COUNTY,

Service Agency.

DDS No. CS0035499

OAH No. 2026040126

ORDER DENYING CLAIMANT'S APPLICATION FOR RECONSIDERATION

An Administrative Law Judge (ALJ) from the Office of Administrative Hearings (OAH) issued a final decision in this matter on May 26, 2026.

On June 10, 2026, Claimant's authorized representative applied to OAH for reconsideration of the decision under Welfare and Institutions Code section 4713 (application). (All further references are to the Welfare and Institutions Code, unless otherwise designated.) The application was timely submitted. Regional Center of Orange County (RCOC) was notified of the application, as was the Department of

Developmental Services. On June 16, 2026, RCOG filed a response (response) to the application.

The undersigned hearing officer, who did not hear the matter or write the decision for which reconsideration is requested, was assigned to decide the application.

Pursuant to section 4713, subdivision (b), a party may apply for 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).

In the decision, the ALJ granted Claimant's request to reallocate five hours of RCOG funded respite care toward personal care services. However, the ALJ denied Claimant's request for RCOG funding for additional Community Activity Support Services or personal assistance hours without prejudice. Additionally, the ALJ denied claimant's requests for funding of Applied Behavioral Analysis (ABA) services pending private insurance provider's assessment and reimbursement of fees for ABA services which have already been paid for by Claimant's mother.

In the application, Claimant requests a reconsideration of the decision because, according to Claimant, the ALJ ignored "uncontradicted evidence"; RCOG misrepresented material evidence; the ALJ precluded Claimant's cross-examination of RCOG management; the ALJ misinterpreted the statutory intent of the Lanterman Developmental Disabilities Services Act (§ 4500 et seq); and newly available evidence regarding Claimant's clinical diagnosis was not considered. Notably, the application does not specify a particular "mistake of fact or law." It does not identify any factual

findings or legal conclusions in the decision in which any mistake purportedly occurred.

In its June 16, 2026 response, RCOC asserts that the application consists of Claimant's disagreement with the ALJ's evaluation of the evidence, credibility determinations, and ultimate conclusions, which does not form the basis for reconsideration under section 4713, subdivision (b).

ANALYSIS

Section 4713, subdivision (b), allows reconsideration "for a correction of a mistake of fact or law." Pursuant to section 4713, subdivision (d), the application for reconsideration must be decided within 15 days of receipt; the hearing officer responsible for deciding the application may deny it, grant it and modify the decision, or grant it and set the matter for another hearing.

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 officer 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 officer reviewing the entire record to determine if the ALJ made mistakes of fact or law.

In this case, Claimant fails to identify any such mistake of fact or law in the decision. Instead, the application seeks a re-evaluation of the case based on evidence and arguments presented in the application. Section 4713 does not allow that kind of review.

Claimant raises issues of the ALJ's evaluation of the evidence, abuse of discretion in evidentiary rulings, interpretation of statutes, and admission of newly available evidence. Code of Civil Procedure section 1094.5, subdivision (b), provides that inquiries for writ of administrative mandamus "shall extend to the questions. . . [of] whether there was a fair trial; and whether there was any prejudicial abuse of discretion. Abuse of discretion is established if the respondent has not proceeded in the manner required by law, the order or decision is not supported by the findings, or the findings are not supported by the evidence." Additionally, subdivision (e) of the same statute provides that on a writ of administrative mandamus, where the Superior Court finds that there is newly available evidence or improperly excluded evidence, it may remand the case for reconsideration, or "in cases in which the [Superior Court] is authorized by law to exercise its independent judgment on the evidence, the [Superior Court] may admit the evidence at the hearing on the writ without remanding the case."

Therefore, the issues raised by Claimant are properly addressed through a writ of administrative mandamus for judicial review by the Superior Court, rather than an application for reconsideration under section 4713, subdivision (b).

For these reasons, the application must be denied.

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ORDER

Claimant's application for reconsideration of the final decision is DENIED.

DATE:

JI-LAN ZANG

Administrative Law Judge

Office of Administrative Hearings