BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

CLAIMANT

and

REGIONAL CENTER OF ORANGE COUNTY,

Service Agency.

DDS No. CS0037017

OAH No. 2026060501

DECISION

Joseph D. Montoya, Administrative Law Judge (ALJ), Office of Administrative Hearings, State of California, heard this matter on July 30, 2026, by videoconference.

Claimant appeared with his authorized representative (sometimes hereafter "AR" or Uncle). (Titles are used for Claimant, his Aunt, and Uncle in the interests of privacy.)

Regional Center of Orange County (RCOC or Service Agency) was represented by Ublester Penaloza, Manager of Fair Hearings and Mediations for RCOC.

Oral and documentary evidence was received. The record was closed, and the matter was submitted for decision on July 30, 2026.

ISSUES

1. Whether Claimant is entitled to retroactive implementation of Self-Determination Program (SDP) services effective June 1, 2026.

2. Whether Claimant is entitled to retroactive payment for Supported Living Services (SLS) reportedly provided by his aunt and uncle beginning June 1, 2026, including payment at the $40.73 hourly rate.

3. Whether RCOC can be required to establish Aveanna Healthcare Support Services (Aveanna) as Claimant's Financial Management Services (FMS) provider under the co-employer model where no FMS relationship has been established between Claimant and Aveanna.

4. Whether Claimant was entitled to payment for SLS from June 1, 2026, as "aid paid pending"?

EVIDENCE RELIED ON

In making this Decision, the ALJ relied on Service Agency's Exhibits 1 through 8 and its position statement, found at Exhibit Z-1, along with the testimony of Crystal Chavez and Patricia Minaya. The ALJ further relied on Claimant's Exhibits CL-1 through CL-15, as well as his resolution letter, which was admitted as Exhibit CL-16. Because both parties identified their exhibits with numerals, the ALJ re-labelled Claimant's exhibits with the prefix "CL" to differentiate them from RCOC's exhibits.

FACTUAL FINDINGS

The Parties and Jurisdiction

1. RCOC 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.) (All further statutory citations are to the Welfare and Institutions Code.)

2. Claimant is a 41-year-old man who is eligible for services under the Lanterman Act based on his qualifying diagnoses of Mild Intellectual Disability and Cerebral Palsy. (Ex. 2, p. A15.) He is not conserved.

3. In February 2026, Claimant took steps to enroll in the SDP. However, at the time of the hearing, transition from the traditional service model to SDP had not been completed.

4. On May 29, 2026, Claimant, through Uncle, filed an appeal although RCOC had not issued a Notice of Proposed Action. The stated reasons for appeal described a sequence of events in late May 2026, where RCOC issued a purchase of services order to Rainbow Home Care Services, Inc. to provide supported living services for Claimant, allegedly "without Sole AR authorization." (Ex. 1, p. A1.) The appeal further states that five days later Uncle became sole AR and "issued directive to RCOC to certify POS #896 for $181,818.72 to Financial Management Services with 6/1/26 start. 48-hour cure deadline 5/28/26 5:00 PM." (*Id.*) Allegedly, RCOC failed to cure and no FMS POS issued, and it is further alleged that RCOC refused to authorize

"FMS To Be Determined on POS with 6/1/26 start, violating WIC [Welfare and Institutions Code] § 4685.8(c)." (*Id.*)

5. This proceeding ensued, all jurisdictional requirements having been met.

Background

6. As noted, Claimant suffers from Mild Intellectual Disability and Cerebral Palsy. In addition to that, he can not hear in his left ear, has substantial hearing loss in his other ear, and suffers from diabetes.

7. Claimant has an Individual Program Plan (IPP), the most recent version of which was developed in December 2025. (Ex. 2.) The IPP indicates Claimant needs assistance with some of his toileting routine, bathing, and cooking, but he can ask for assistance and direct it as needed. He manages his finances independently, makes his own doctor's appointments, and actively participated in development of his IPP. He is a private person and doesn't respond well to others talking about his disabilities. He can get upset if his schedule is disrupted. (*Id.*, p. A4.)

8. The IPP states that Claimant is happy with his life, but he would like to continue living independently with appropriate supports, and to be more independent in the community. He expressed a desire to engage in various activities, such as taking a cruise or attending concerts, festivals, and cultural events. In terms of decision making for choice/advocacy, Claimant's aunt and uncle assist him. (Ex. 2, p. A5.)

9. Some of the goals in the IPP were to increase social skills, and to continue to be part of events and trips with his family. Claimant also expressed interest in a community-based day program, and the IPP team discussed social recreation activities, including continuing Claimant's gym membership. (Ex. 2, pp. A6-A7.)

10. The IPP team discussed Claimant's living arrangements and financial matters, such as his receipt of Social Security, State Supplementary Payment, and In-Home Supported Services (IHSS). The team further discussed options such as Independent Living Services and Supported Living Services, with Claimant expressing interest in the latter. (Ex. 2, p. A8.)

11. The IPP discloses that Claimant needs significant levels of support across all self-care domains. His aunt is his IHSS provider. He needs support in meal preparation and nutrition monitoring, and medication administration. He requires assistance in personal hygiene, behavioral support, and toileting. His food intake must be monitored to avoid choking, and he will often not drink water, leading to dehydration. Because of his diabetes, he requires a special diet; his eating must be monitored to make sure he stays on that diet. Other areas of needed support are disclosed in the IPP document. (Ex. 2, p. A13.)

Transition to SDP

12. Testimony indicated that in February 2026, Claimant sought participation in SDP. Aunt attended the SDP orientation and she received a certificate that she had completed the orientation. Completing SDP orientation is a prerequisite to participation in that program. However, as noted above, transition has not been completed. Testimony showed that key milestones have not been met, including the development of a person-centered plan and the development of a budget and spending plan. Further, no FMS has been brought on board.

RCOC Approval of Residence Status

13. On March 25, 2026, the IPP team met and discussed several issues. Germane to this matter was a change in Claimant's Residence Type to Own Home—

Independent Living instead of Home of Family. RCOC communicated the approval on March 30, 2026, in a letter to Claimant. (Ex. 4.) The parties agreed to changes in the IPP to modify then-current IPP goals for health, home life, and community integration.

Authorization and Deauthorization for Supported Living Services (SLS)

14. On a date not disclosed by the record, an SLS assessment was conducted by Rainbow Homecare Services, Inc. (Rainbow). Rainbow generated a "Summary of Assessment" on May 15, 2026; the summary referenced a meeting at Claimant's home on that date with Claimant, Aunt, and two persons from Rainbow. (Ex. CL 6.) Among other things, the summary provided for round-the-clock SLS, which included 96 hours of IHSS; Claimant's cousin was identified as the IHSS provider. (*Id.*, p. B26.) (A later communication from the family indicated that cousin was not the IHSS provider.)

15. On May 21, 2026, Service Agency issued a Purchase of Service (POS) memo authorizing SLS for Claimant from June 1, 2026, to December 31, 2026, to be provided by Rainbow. The service would be one-to-one, 624 hours per month in a 30-day month, and 648 hours per month in a 31-day month. The pay rate for Rainbow's services was $40.73 per hour. (Ex. 5.)

16. On May 21, 2026, Claimant's service coordinator, Jamie Williams, sent an email to Aunt, copied to Claimant and Uncle, informing them that the SLS POS had been sent to the accounting team for authorization. Further, she stated she would reach out to Rainbow and tell them Claimant and his family were going forward with Rainbow for SLS services. (Ex. CL9, p. B34.)

17. On the evening of May 21, 2026, Claimant's aunt sent an email to Patricia Minaya, an area supervisor for RCOC, regarding Rainbow and the SLS services. Aunt

stated she was contacting Minaya because Claimant's service coordinator was out of the office until May 26, 2026. The email stated that "we explicitly instructed Jaimie not to select Rainbow Home Care, and we have not consented to them as our provider." (Ex. 6.) The email went on to state that Claimant and his family were exercising their right to choose a provider under the Lanterman Act, and that the selection would be forthcoming.

18. RCOC took the necessary steps to cancel the prior service authorization for Rainbow. (Ex. 7.) This created a situation where there was and is no SLS provider.

19. On June 1, 2026, Claimant sent an email to his service coordinator, Aunt and Uncle, and others at RCOC which stated in part "I can make my own choices in who I want as my care provider's [sic]. I choose [Aunt and Uncle] as my care providers. Can they start today so I won't have a gap in my services." (Ex. CL3, p. B11.)

Claimant's Demands for Services After Terminating Rainbow

20. On Saturday, May 30, 2026, at 9:44 pm, Uncle emailed Minaya, Williams, and Jeffrey Johnson, an area manager. Uncle stated, in part, that "per WIC 4715, aid paid pending is invoked for FH-2026-CS0037017, filed 5/29/26." (Ex. CL3, p. B9.)

21. Uncle went on to state:

> SDP services for [Claimant] commence 6/1/26 12:00PM:
>
> Providers: [Aunt, Uncle]
>
> Rate: $25/hr, 560 hrs/mo total
>
> Auth period: 6/1/26-12/31/26 per POS 5/21/26

WIC 4685.8(d): Family providers authorized. [Uncle] AR recusal effective 5/29/26 9AM attached.

WIC 4712.5: URGENT 10-day hearing. OAH response due 48 hours.

RCOC must provide FMS authorization code by 6/1/26 9AM for APP compliance.

(Ex. CL3, p. B9.)

22. On the morning of June 1, 2026, Uncle sent an email to Johnson, with a "DEMAND BY 5PM 6/1/26," which stated:

1. * Written confirmation SDP 624 hours per month in a 30 day month 648 hours in a 31 day month. is ACTIVE effective 6/1/26* with no gap

2. * Written confirmation [Aunt and Uncle] are approved as chosen providers* per WIC 4685.8(f)

3. "FMS enrollment started immediately* with [Claimant] as employer-of-record, NOT Rainbow Please Send FMS list Rainbow cannot be employer. Claimant fired them 5/21/26 + 5/30/26 DRC call.

(Ex. CL3, p. B10.)

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Other Matters

23. As indicated in Factual Finding 10, no SLS was in place after the December 2025 IPP; it was discussed as a possibility. The record indicates that no SLS was authorized until RCOC authorized Rainbow to provide such services in May 2026.

24. Claimant designated Aveanna to act as the FMS for Claimant's SDP, as a co-employer with Claimant. (Ex. CL 11.) However, Claimant had not consulted Aveanna about working together. Aveanna requires such a consultation before working with a client; it appears that an FMS cannot be simply designated to participate without the consent of the FMS. Further, at the time of the hearing Aveanna was not accepting referrals for the Co-Employer model, only accepting referrals for the "Bill Payer" model. (Ex. 8.)

25. On June 1, 2026, Williams emailed Aunt and Uncle, stating RCOC would honor the hours outlined in the SLS assessment, i.e., 624 hours in a 30-day month. But as to the payrate Aunt and Uncle were seeking to be the SLS providers—$25.00 per hour—she told them such would have to be worked out with Rainbow as it would be the employer. (Ex. CL-3, pp. B9-B10.)

26. RCOC does not dispute that SLS was authorized, though it would require the IHSS hours available to Claimant to be factored in. It also does not object to Aunt and Uncle being the service providers. It asserts that designating service providers does not authorize pay. However, with an incomplete transition to SDP, Aunt and Uncle cannot be paid from an SDP program, and would instead have to be employed by a vendor in the traditional system.

27. Crystal Chavez, SDP Coordinator at RCOC, testified to the effect that Claimant has not transitioned to SDP, and that a number of steps must be taken

before he can do so. Such includes finding an FMS, the only vendor required in SDP. The FMS "on boards" workers and sees that they are paid. The FMS runs payroll and helps manage the budget. An FMS has not been brought into the picture at this time.

28. Claimant submitted billing for Aunt and Uncle's services as SLS providers, totaling $46,432.20 for the period June 1, 2026, to July 25, 2026. (Ex. CL12, p. B37.)

Analysis of the Evidence

29. The evidence establishes that while RCOC was willing to pay Rainbow to provide SLS services, Claimant insisted on terminating Rainbow, to give the work to Aunt and Uncle. The problem with that is that the parties were, and still are, functioning in the traditional service delivery model, and not SDP. In the traditional model, services are provided through regional center vendors, and Aunt and Uncle were not and are not vendors. To designate them as service providers did not make them vendors, or authorize them to provide the services other than as employees of a vendor.

30. Furthermore, even if the SDP was up and running, designating Aunt and Uncle as care providers was not enough. They would have to be "on boarded" with the FMS, so that their pay rate could be established; they would have to be screened for criminal records (an unlikely problem); and other formalities of employment discharged. There is no FMS in place; demanding that RCOC designate Aveanna as the FMS does not establish that firm as an FMS. Aveanna would have to agree to serve in that position, which it has not done.

31. There not being SLS services in place as of May 29, 2026, means that RCOC cannot provide the services of an SLS provider "aid paid pending," and it cannot

do so by paying non-vendors to provide the services pending the outcome of this proceeding.

LEGAL CONCLUSIONS

1. An administrative fair hearing to determine the rights and obligations of the parties, if any, is available under the Lanterman Act. (§§ 4700-4716.)

2. As Claimant is requesting services and funding, he bears the burden of proof. (See, e.g., *Lindsay v. San Diego County Retirement Bd.* (1964) 231 Cal.App.2d 156, 161 (disability benefits); Evid. Code, §500.)

3. The standard of proof is the 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.)

4. As found, Claimant has not entered the SDP by the time of the hearing; his services are still provided under the traditional model. (Factual Findings 3, 12, 26, 27, and 29.) As such, services must be provided by regional center vendors. (§ 4648, subd. (a)(3).) Aunt and Uncle are not vendors, and the would-be SLS vendor was terminated by Claimant before it could begin providing services to him.

5. Claimant's efforts to direct commencement of SDP in his emails to RCOC could not and did not place him in SDP. As found, there is a considerable amount of process required before SDP can be established, and Claimant has not completed that process. Section 4685.8 requires and SDP participant to manage services with an

individual budget, use a spending plan tied to the IPP, an utilize a qualified FMS provider that is vendored by a regional center. (§ 4685.8, subds. (c)(7), (d)(3)(D)-(E), (j), (m), & (t).) Aunt and Uncle cannot be employed as care givers through SDP, because there is no SDP program to employ them. SDP cannot be authorized retroactively. (§ 4685.8, subd. (d)(3)(a).)

6. Claimant has provided no authority for the proposition that RCOC can compel Aveanna, or any other SLS, to be the FMS for his program, and RCOC is not required to try to force such a relationship on Aveanna.

7. RCOC did not authorize Aunt and Uncle to be care providers as vendors, employees of a vendor, or as employees of Claimant under an SDP program. As such, they are not entitled to retroactive payment for their unauthorized work. The structure of the Lanterman Act is such that services are to be purchased after agreement by the parties, and retroactive payment is, as a general matter, not authorized. (See Cal. Code of Regs., tit. 17, § 50612.) Here, Claimant would unilaterally purchase services without the Service Agency's consent.

8. Claimant is not entitled to payment for Aunt and Uncle's services as "aid paid pending." Aid paid pending, authorized by section 4715, is meant to maintain the status quo during the pendency of an appeal; "services that are being provided pursuant to a recipient's individual program plan shall be continued during the appeals process . . . . " The record establishes there were no SLS services in place when the appeal process began, and Aunt and Uncle had not been authorized to provide services at any rate of pay.

9. The Lanterman Act contemplates a cooperative approach to determining what services can be provided to a consumer, and how they will be paid for. The

parties are urged to reconvene an IPP meeting and meetings to further transition to SDP, at the parties' first convenience. In the meantime, Claimant's appeal must be denied.

ORDER

Claimant's appeal is denied.

DATE:

JOSEPH D. MONTOYA
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.