

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

In the Matter of:

CLAIMANT

and

INLAND REGIONAL CENTER, Service Agency

DDS No. CS0037655

OAH No. 2026061123

DECISION

Debra D. Nye-Perkins, Administrative Law Judge, Office of Administrative Hearings, State of California, heard this matter by videoconference and telephone on August 5, 2026.

Hilberto Echeverria, Jr., Fair Hearings Representative, Fair Hearings and Legal Affairs, represented Inland Regional Center (IRC).

Claimant's mother and claimant's father represented claimant, who was not present, as his authorized representatives.

Oral and documentary evidence was received. The record was closed, and the matter was submitted for decision on August 5, 2026.

ISSUE

Is IRC required to continue funding 25 hours per month of tutoring services during the summer period for claimant?

FACTUAL FINDINGS

Jurisdictional Matters

1. Claimant is an eight-year-old regional center consumer pursuant to the Lanterman Developmental Disabilities Services Act (Lanterman Act), Welfare and Institutions Code section 4500 et. seq. Claimant is eligible for services based on his diagnosis of autism spectrum disorder (ASD). Claimant resides in the family home with both biological parents and an older brother.

2. Claimant is currently authorized to receive various services from IRC, including 25 hours per month of tutoring from Tutor Me Education. IRC authorized funding for those tutoring services from December 2024 through June 30, 2026, in six-month increments, as a short-term support to address academic needs. Claimant qualifies for special education services at his elementary school under the diagnosis of ASD and other health impairment.

3. On May 29, 2026, IRC issued a Notice of Action (NOA) to claimant's parents notifying them that IRC will not renew the tutoring services for claimant for the summer period. Specifically, the NOA provided the following as a proposed action:

IRC-funded tutoring services currently authorized for
[claimant] will expire on June 30, 2026 and will not be

renewed for the summer period. IRC authorizes tutoring services in six-month increments as a short-term support to address identified academic needs related to the consumer's developmental disability. Continued authorization requires updated review and documentation demonstrating that ongoing eligibility criteria have been met.

For IRC to consider continued funding of tutoring services, it must be determined that:

- services available through the local school district have been fully exhausted,
- the student continues to require short-term academic support related to the developmental disability,
- and the requested tutoring does not duplicate services available through a Free Appropriate Public Education (FAPE).

4. The May 29, 2026, NOA further provided as the reason for the proposed action as follows:

This decision was made because IRC-funded tutoring services are intended to provide short-term academic support and are authorized in limited increments based on documented educational need and exhaustion of generic resources. [Claimant] is currently receiving Special

Education services and supports through the school district, including Specialized Academic Instruction, accommodations, modifications, and related educational services through an active IEP.

At this time, there is no documentation indicating that: FAPE is not being provided, school-based educational resources have been exhausted, or that summer tutoring is necessary as an extraordinary disability-related support beyond the responsibility of the educational system. Therefore, the current tutoring authorization will expire on June 30 2026 and will not continue through the summer months. Parents may retain tutoring services at their own expense during the summer period, which would be considered a typical parental responsibility if the parent determines their child would benefit from continued academic support. Should you wish to request tutoring services for the upcoming academic school year, a new request may be submitted for review along with updated educational documentation.

5. On June 16, 2026, claimant appealed the proposed action in the NOA and IRC's denial of funding for tutoring services, and this hearing followed.

IRC's Evidence

6. IRC presented the testimony of three witnesses at hearing, namely Shawna Timmons, Consumer Service Coordinator (CSC), Keniece Perscell, Program

Manager, and Amanda Knoefler, Individuals with Disabilities Education Act (IDEA) Specialist. The following factual findings are made from their testimony, as well as from numerous documents received in evidence.

TESTIMONY OF SHAWNA TIMMONS

7. Shawna Timmons is employed by IRC as a CSC, a position she has held for the past 24 years. Her responsibilities include assisting families with generic resources, coordinating services with IRC providers, attending annual Individualized Program Plan (IPP) meetings for consumers, participating in the IPP development, and advocating for services for consumers. Ms. Timmons has been claimant's CSC for the past four and a half years. Ms. Timmons has also attended claimant's Individualized Education Program (IEP) meetings at his school when she has been asked to do so by his parents. Ms. Timmons's role at the IEP meetings is to ensure that the parent's concerns regarding claimant's education are addressed in the IEP meeting.

8. Ms. Timmons testified that claimant's parents first requested tutoring services for claimant in November 2024 because they were concerned about claimant's academic growth. Ms. Timmons brought this request to her program manager, Ms. Perscell, to discuss. Ms. Perscell told Ms. Timmons that she could do a referral to Tutor Me Education, which indicated that they could take claimant as a client. Ms. Timmons thereafter completed the purchase of service for 25 hours per month of tutoring services for the time frame of December 1, 2024, to September 30, 2025. Claimant appeared to benefit from those tutoring services and his next IPP was completed in March 2025, which provided that IRC agreed to provide tutoring services for 25 hours per month "effective 12-1-2024 to 9-30-2025." The March 2025 IPP also provided that IRC would monitor claimant's progress on a semi-annual basis.

TESTIMONY OF KENIECE PERSCELL

9. Ms. Perscell is employed by IRC as a program manager for San Bernardino school age consumers, a position she has held for the past 12 years. Prior to this position she worked at IRC for five years as a CSC for Riverside school age consumers. Ms. Perscell's responsibilities in her current position include supervision and support for CSCs and assistance with obtaining services for consumers. As noted, Ms. Perscell is the program manager of Ms. Timmons.

10. Ms. Perscell testified that Ms. Timmons brought claimant's request for IRC to continue to fund 25 hours per month of tutoring services throughout the summer of 2026 to her attention. Ms. Perscell and Ms. Timmons then looked at all documentation provided by claimant regarding the request for continuing the tutoring services, which consisted solely of claimant's current IEP from the school district. Ms. Perscell stated that she is not aware of any paperwork provided to IRC regarding any additional concerns from claimant's school that claimant has any regressions academically.

11. Ms. Perscell stated that both claimant's 2025 and 2026 IPP documents show that claimant is approved for funding by IRC for each of those years for: 32 hours per month of preferred provider respite; 26 hours per month of social/recreational reimbursement for basketball, a physical fitness program, and swimming lessons; 25 hours per month of tutoring services; and 42 hours per month of Applied Behavioral Analysis (ABA) services.

12. Ms. Perscell testified that IRC does not fund tutoring services on an ongoing basis, but rather IRC provides funding for tutoring services on a temporary basis. IRC approved claimant on a temporary basis for the tutoring service to assist

with improving his academics because his parents believed that he would benefit from the tutoring service. IRC approved the tutoring service at 25 hours per month effective December 1, 2024, to September 30, 2025, and then again approved the tutoring services from October 1, 2025, to June 30, 2026. However, Ms. Perscell stressed that she is not aware of claimant utilizing any generic resources for tutoring services as required by statute. She is also not aware if claimant's concerns regarding his academic performance have been brought to the school district.

13. Ms. Perscell stated that IRC reviewed claimant's request for continued funding for tutoring services by reviewing his IEP, report cards, claimant's parent's request and reasoning, additional assessments provided by the school, and discussion with claimant's CSC. After these steps were taken, Ms. Perscell rendered a decision regarding funding for the tutoring services. Specifically, Ms. Perscell testified that IRC denied claimant's request for funding for tutoring services beyond the already approved date of June 30, 2026, and during the summer of 2026 beyond the 2025-26 academic school year, because there was no evidence provided by claimant's parents to justify the funding. Ms. Perscell drafted the NOA in this matter. She stressed during her testimony that the NOA is limited to continuance of funding for the tutoring services beyond June 30, 2026, and that there was no evidence to support funding during the summer of 2026 or moving forward. She also testified that claimant's family can request funding for these tutoring services for the 2026-27 academic school year, but they must do so with a request to IRC for that funding so IRC can reassess claimant's situation and appropriateness of that funding.

14. Ms. Perscell testified that because this matter was pending resolution through this hearing, IRC was required to fund the tutoring service for claimant from June 1, 2026, to November 30, 2026, because they qualified for aid paid pending to

make sure there were no gaps in services for claimant due to their appeal of the NOA in this matter.

TESTIMONY OF AMANDA KNOEFLER

15. Amanda Knoefler is employed by IRC as an IDEA specialist, a position she has held for the past two years. Ms. Knoefler holds a master's degree in education and a teaching credential in mild to moderate special education. Prior to her current position, Ms. Knoefler worked as a CSC at IRC for Riverside pre-school consumers. Ms. Knoefler's current position requires her to review educational materials regarding IEPs and tutoring documents, training educational trainers to support the program managers in educational areas, working with the school districts to create memorandums of understanding and interagency agreements, and reviewing educational records for consumers for determinations regarding requests for services.

16. Ms. Knoefler is familiar with claimant because she was asked to review his records for a determination of his educational progress and whether further funding of tutoring services is required beyond the June 30, 2026, end date for approved tutoring services. Ms. Knoefler reviewed all documents received into evidence in this matter including multiple IEP documents for claimant from his school; math assessments, and English language assessments for claimant; as well as tutoring documents related to his tutoring services. Ms. Knoefler testified that claimant qualifies and receives special education services from his school district on the qualifying basis of ASD and other health impairment.

17. Ms. Knoefler's review of each of claimant's IEP documents from April 26, 2024, through April 23, 2026, shows that claimant is making substantial progress each year and is progressing well. Claimant receives accommodations at his school with his

program being modified towards his developmental levels and goals. Ms. Knoefler also testified that claimant's report from Tutor Me Education tutoring services for English language arts and mathematics show that claimant is progressing well in both of those areas.

18. Ms. Knoefler stated that tutoring services provided by IRC are intended to be for six months or less and a review of the consumer's educational record is done for a determination of whether tutoring services are warranted. Ms. Knoefler reviewed all of claimant's educational records, which show that an extension of the tutoring services beyond the June 30, 2026, date is not warranted. She stated that claimant has educational support throughout the summer until the start of school. Additionally, tutoring services throughout the summer can be obtained through generic resources such as extra tutoring time offered through the school district, the library, and family support. She stated that there are free worksheets that the family can obtain online for claimant as well. Claimant's family can also access paid services from Sylvan Learning Center if they so choose. Ms. Knoefler testified that given the generic resources available, and given that claimant does not appear to have a need for the tutoring during the summer, there is no need for IRC to continue funding tutoring services for claimant at this time.

Claimant's Evidence

19. Both of claimant's parents testified at the hearing, as well as claimant's current academic tutor, Cinthia Barrera. The following factual findings are based on their testimony.

TESTIMONY OF CINTHIA BARRERA

20. Cinthia Barrera is claimant's academic tutor and works for Tutor Me Education, a position she has held for the past two years. She tutors claimant approximately four to five times per week for about one and a half to two hours at a time. Ms. Barrera has worked as claimant's tutor for the past two years. Ms. Barrera has an educational background in early childhood development and education, and she is also a registered behavioral technician and certified autism technician.

21. During the time she has worked with claimant he has transitioned from a lower functioning class to a mild to moderate class with a new teacher for better placement. At claimant's second IEP with his school district, it was requested that claimant be mainstreamed into general education classes on a part-time basis because his capabilities indicate that would be appropriate.

22. Ms. Barrera has built trust with claimant over the past two years. She stated he has a lot of maladaptive behaviors such as non-compliance, aggression, yelling, cursing, and refusing to work. Since working with him, Ms. Barrera has established a routine and rapport with claimant that helps claimant's learning and wellbeing. She stated that his retention is not the best and if she does not work with him on a regular basis, claimant forgets what he learned.

23. Ms. Barrera believes that her tutoring has helped claimant, and he trusts her. Ms. Barrera stated that she has been the only consistent support that claimant has had over the past two years because during that time he has had four different ABA therapists. When he sees Ms. Barrera claimant is motivated to learn, but claimant struggles with transitions, has attention seeking behavior, and tries to elope and escape to get out of doing work. The amount of progress claimant has had with Ms.

Barrera has been phenomenal. Claimant has progressed from functioning at a preschool level to now about a second grade level.

24. Ms. Barrera stated that claimant will not benefit from tutoring resources outside of the Tutor Me Education where Ms. Barrera works because the work Ms. Barrera does for claimant is custom made for claimant. Claimant needs more specialization. Ms. Barrera stated that claimant's behaviors are always different, and she offers him alternative behaviors and manages his behaviors proactively in real time. Ms. Barrera admitted on cross-examination that these behaviors are something that can be managed with ABA therapy services. However, there is a lack of trained ABA professionals, claimant has had four different ABA therapists in two years, Ms. Barrera is trained to provide ABA therapy and provides that to claimant through her tutoring services.

TESTIMONY OF CLAIMANT'S MOTHER

25. Claimant's mother believes that the Tutor Me Education tutoring services with Ms. Barrera helps claimant's educational and behavioral progress. Because claimant's ABA therapy has been "on and off" the tutor helps him tremendously. Claimant's mother stressed, "the main part is his behavior." She would like for Ms. Barrera to continue to tutor claimant because claimant trusts Ms. Barrera and he always asks for her instead of wanting to go to school.

26. Claimant's mother stated that claimant's most recent ABA therapist quit on July 22, 2026, and that was the last day claimant received ABA therapy. That particular therapist only worked with claimant for one month. Claimant's mother stated that the ABA therapist spent most of that time simply gaining claimant's trust and not much more before that therapist quit.

27. Claimant's mother admitted during cross-examination that claimant had not explored any tutoring services from his school district before getting authorization from IRC for tutoring services. Claimant's mother stated she never discussed tutoring with the school, but that claimant's teacher told her that she was surprised that claimant has made such good progress with the use of the tutor.

TESTIMONY OF CLAIMANT'S FATHER

28. Claimant's father testified that claimant's ABA therapy services provider recently quit, and as a result claimant is not getting ABA services, which IRC funds. Claimant's parents are attempting to obtain another ABA provider but have not yet been successful. IRC funds the ABA services for claimant.

29. For the past two years Ms. Barrera has built a strong relationship with claimant, has a strong understanding of his development, and simply cannot be replaced. Ms. Barrera has been an asset to claimant's well-being and academic progress, and removing her as a tutor would negatively impact claimant's growth and success. Accordingly, claimant's father is hoping IRC will continue to fund the tutoring services for claimant.

LEGAL CONCLUSIONS

Burden and Standard of Proof

1. Each party asserting a claim or defense has the burden of proof for establishing the facts essential to that specific claim or defense. (Evid. Code, §§ 110, 500.) In this case, claimant bears the burden to demonstrate that he is entitled to receive IRC funded tutoring services.

2. The standard by which each party must prove those matters is the “preponderance of the evidence” standard. (Evid. Code, § 115.) A preponderance of the evidence means that the evidence on one side outweighs or is more than the evidence on the other side, not necessarily in number of witnesses or quantity, but in its persuasive effect on those to whom it is addressed. (*People ex rel. Brown v. Tri-Union Seafoods, LLC* (2009) 171 Cal.App.4th 1549, 1567.)

The Lanterman Act

3. The State of California accepts responsibility for persons with developmental disabilities under the Lanterman Act. (Welf. & Inst. Code, § 4500, et seq.) The purpose of the Lanterman Act is to rectify the problem of inadequate treatment and services for the developmentally disabled and to enable developmentally disabled individuals to lead independent and productive lives in the least restrictive setting possible. (Welf. & Inst. Code, §§ 4501, 4502; *Assn. for Retarded Citizens v. Dept. of Developmental Services* (1985) 38 Cal.3d 384.) The Lanterman Act is a remedial statute; as such it must be interpreted broadly. (*Cal. State Restaurant Assn. v. Whitlow* (1976) 58 Cal.App.3d 340, 347.)

4. When an individual is found to have a developmental disability under the Lanterman Act, the State of California, through a regional center, accepts responsibility for providing services to that person to support his or her integration into the mainstream life in the community. (Welf. & Inst. Code, § 4501.) The Lanterman Act acknowledges the “complexities” of providing services and supports to people with developmental disabilities “to ensure that no gaps occur in . . . [the] provision of services and supports.” (Welf. & Inst. Code, § 4501.) To that end, Welfare and Institutions Code section 4501 states: “An array of services and supports should be established which is sufficiently complete to meet the needs and choices of each

person with developmental disabilities, regardless of age or degree of disability, and at each stage of life. . . .”

5. The Department of Developmental Services (DDS) is the public agency in California responsible for carrying out the laws related to the care, custody, and treatment of individuals with developmental disabilities under the Lanterman Act. (Welf. & Inst. Code, § 4416.) A regional center’s responsibilities to its consumers are set forth in Welfare and Institutions Code sections 4640-4659. In order to comply with its statutory mandate, DDS contracts with private non-profit community agencies, known as “regional centers,” to provide the developmentally disabled with “access to the services and supports best suited to them throughout their lifetime.” (Welf. & Inst. Code, § 4620.)

6. “Services and supports” are defined in Welfare and Institutions Code section 4512, subdivision (b), and in order to be authorized, a service or support must be included in the consumer’s IPP. In implementing an IPP, regional centers must first consider services and supports in the natural community and home. (Welf. & Inst. Code, § 4648, subd. (a)(2).) Welfare and Institutions Code section 4512, subdivision (b) provides, in part:

“Services and supports for persons with developmental disabilities” means specialized services and supports or special adaptations of generic services and supports directed toward the alleviation of a developmental disability or toward the social, personal, physical, or economic habilitation or rehabilitation of an individual with a developmental disability, or toward the achievement and maintenance of an independent, productive, and normal

life. The determination of which services and supports are necessary for each consumer shall be made through the individual program plan process. The determination shall be made on the basis of 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 individual program plan participants, the effectiveness of each option in meeting the goals stated in the individual program plan, and the cost-effectiveness of each option. . . .

7. "Natural Supports" is defined in the Lanterman Act as "personal associations and relationships typically developed in the family and community that enhance or maintain the quality and security of life for people." (Welf. & Inst. Code, § 4512, subd. (e).)

8. Pursuant to Welfare and Institutions Code section 4646, subdivision (a), the planning process is to take into account the needs and preferences of the consumer and his or her family, "where appropriate." Services and supports are to assist disabled consumers in achieving the greatest amount of self-sufficiency possible. (Welf. & Inst. Code, § 4648, subd. (a)(1).) The regional center is also required to consider generic resources and the family's responsibility for providing services and supports when considering the purchase of regional center supports and services for its consumers. (Welf. & Inst. Code, § 4646.4.)

9. Services provided must be cost effective (Welf. & Inst. Code, § 4512, subd. (b)), and the Lanterman Act requires the regional centers to control costs as much as possible and to otherwise conserve resources that must be shared by many

consumers. (See, e.g., Welf. & Inst. Code, §§ 4640.7, subd. (b); 4651, subd. (a); 4659; and 4697.)

Evaluation

10. The Lanterman Act and the applicable regulations set forth criteria that a claimant must meet in order to qualify for regional center services. Claimant has the burden of demonstrating the need for IRC to fund continuing tutoring services beyond the June 30, 2026, date. It is noted that IRC has already provided approval for funding for the tutoring services until November 2026 because of this pending appeal. Claimant failed to meet his burden to demonstrate that he is entitled to the continuing tutoring services requested.

11. Pursuant to the cited portions of the Lanterman Act above, the regional center is the payor of last resort and must ensure that generic resources are exhausted prior to funding any services and supports. In this case, claimant has not exhausted generic resources and has not sought assistance from the school district for the particular tutoring services. Additionally, Ms. Barrera and claimant's parents testified that Ms. Barrera provides ABA therapy services to claimant, which is not tutoring services per se. IRC already funds ABA therapy services for claimant. While IRC has been unable to obtain a consistent ABA therapist for claimant, those ABA services are nevertheless funded. Use of funds meant for tutoring services to provide ABA therapy is inconsistent with the intention of the funds and applicable regulations.

12. While it is evident that claimant has benefited greatly from the tutoring services provided by Ms. Barrera, claimant must still exhaust all generic resources prior to IRC funding this service. Indeed, IRC must also consider the family's obligation as a natural support to provide such services as well. After consideration of all evidence

presented, claimant has failed to meet his burden to demonstrate he is entitled to the continued funding for tutoring services requested.

13. Notably, claimant may still reapply for the tutoring services for the 2026-2027 school year, which requires submission of that request to IRC with supporting documentation and information.

ORDER

Claimant's appeal is denied.

DATE: August 18, 2026

DEBRA D. NYE-PERKINS

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 a 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.