

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

In the Matter of:

CLAIMANT

and

NORTH BAY REGIONAL CENTER, Service Agency.

DDS No. CS0035665

OAH No. 2026040555

DECISION

Administrative Law Judge Carl D. Corbin, State of California, Office of Administrative Hearings, served as the hearing officer for this matter on May 28, 2026, in Napa, and on June 25, 2026, by videoconference.

Claimant was represented by his limited conservator, who is also his parent. Claimant was briefly present on May 28, 2026.

Fair Hearing Specialist Alexandra Evans represented service agency North Bay Regional Center.

The record closed and the matter was submitted for decision on June 25, 2026.

ISSUE

Can NBRC pay claimant's parent, who is also his limited conservator, to provide paid personal assistance services to claimant through Participant-Directed Services under "traditional services"?

FACTUAL FINDINGS

Introduction

1. Claimant is an almost 19-year-old adult who lives with his mother, who is also his limited conservator. Claimant is eligible under the Lanterman Developmental Disabilities Services Act (the Lanterman Act, Welf. & Inst. Code, § 4500 et seq.)¹ for services from NBRC because he is substantially disabled by autism spectrum disorder. Claimant is non-verbal, dependent on others for his care, and has a history of severe behavioral challenges (including head banging and physical aggression towards others). Claimant has recently started taking psychotropic medication to reduce his aggression, with some success. Claimant relies upon a combination of natural supports, NBRC-funded services, and In-Home Supportive Services (IHHS) to manage his day-to-day needs. Claimant's parent/conservator currently provides claimant with 283 hours per month of IHHS, the maximum amount permitted.

¹ Statutory references are to the Welfare and Institutions Code, unless otherwise stated.

2. The purpose of an Individual Program Plan (IPP) meeting is to use a person-centered approach to consider the needs and preferences of a regional center client and, as appropriate, their family, using an individualized needs determination to develop the provision of services and supports to assist a client to achieve their personal outcomes and life goals and promote inclusion in their community through a cost-effective use of public resources. (§ 4646.) In addition, services and supports should be provided in the least restrictive environment that will “foster the developmental potential of the person and be directed toward the achievement of the most independent, productive, and normal lives possible,” and “services shall protect the personal liberty of the individual and shall be provided with the least restrictive conditions necessary to achieve the purposes of the treatment, services, or supports.” (§ 4502, subd. (b)(1).) In implementing an IPP, regional centers must first consider services and supports in the natural community and home. (§ 4648, subd. (a)(2).) Such natural supports include family relationships and friendships developed in the community that enhance the quality and security of life for people. (§ 4512, subd. (e).)

3. On July 21, 2025, an IPP meeting was held for claimant, and an IPP with person-centered objectives was developed. On September 19, 2025, an addendum to claimant’s IPP was developed.

4. Claimant receives NBRC services through the Act’s “traditional services” model and has not elected to participate in the Lanterman Act’s optional Self-Determination Program (SDP). The SDP was added to the Lanterman Act 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 to implement their IPP.” (§ 4685.8, subd. (a).) An IPP for an SDP participant is subject to the same requirements as for Lanterman Act consumers who

do not participate in the SDP. (§ 4685.8, subd. (c)(4).) In the SDP, the participant directs spending from an "individual budget," representing "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." (§ 4685.8, subd. (c)(3).) NBRC has offered to provide claimant's parent/conservator with assistance in understanding and implementing claimant's participation in the SDP. At hearing, claimant's parent/conservator explained that she has not elected to participate in the SDP for claimant because she believes the SDP is too complicated and she would rather NBRC maintain control over fiscal and other issues under the traditional services model of the Lanterman Act.

5. It is undisputed that claimant requires personal assistance, which is a service that assists a Lanterman Act participant with personal assistance and support to allow the participant to be successful in their home and in the community. Personal assistance is a type of Participant-Directed Services. On a date not established by the evidence, but in approximately March 2026, claimant's parent/conservator made a request to NBRC that she be allowed to serve as claimant's personal assistant and be paid through the Lanterman Act for her services. The evidence established neither the number of hours of personal assistance services that are being requested by claimant nor the amount of personal assistance services that NBRC believes claimant requires.

6. On March 19, 2026, NBRC issued a Notice of Action to claimant's parent/conservator stating that her request to provide personal assistance to claimant for payment was denied, and providing as the reason that: "NBRC shall not fund Personal Support services provided by a parent or a spouse as this is considered a 'natural support' and prohibited under regulation."

7. At hearing, NBRC articulated its position that either someone besides claimant's parent/conservator could provide personal assistance services to claimant under the traditional service model or claimant could elect to participate in the SDP, and through the SDP, claimant's parent/conservator could be paid to provide personal assistance services to claimant. NBRC has not clearly explained why the paid personal assistance services from claimant's conservator/parent would be impermissible as a "natural support" under the Lanterman Act's traditional services, but would be permissible if he participates in the SDP. In support of its position, NBRC argues that it is required to comply with directives from the Department of Developmental Services (DDS) and DDS issued an October 2020 document entitled "Frequently Asked Questions for Self-Advocates and Families About Participant-Directed Services During the COVID-19 Pandemic," which stated that "a spouse and generally a parent cannot provide respite, day care, personal assistance, or independent living skills." The COVID-19 pandemic has long ended. As discussed below, California Code of Regulations, title 17, section 58886, was amended, effective September 16, 2022, to add personal assistance, independent living services, and supported employment to the list of Participant-Directed Services, superseding the DDS document.

8. Claimant's conservator/parent provided undisputed evidence that she is able to manage claimant's aggressive behaviors and to provide him with the personal assistance and support that he requires to be successful in his home and community.

LEGAL CONCLUSIONS

1. The Lanterman Act entitles claimant to an administrative fair hearing to review a service agency's service decisions. (§ 4710 et seq.) Claimant bears the burden in this matter to prove that the Lanterman Act requires NBRC to allow his

parent/conservator to provide him with paid personal assistance services under the Lanterman Act's traditional services. The standard of proof required is a preponderance of the evidence. (Evid. Code, §§ 115, 500.)

2. Pursuant to the Lanterman Act, the State of California accepts responsibility for persons with developmental disabilities. (§ 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. (§§ 4501, 4502; *Assn. for Retarded Citizens v. Dept. of Developmental Services* (1985) 38 Cal.3d 384.) Because the Act is a remedial statute, it must be interpreted broadly. (*California State Restaurant Assn. v. Whitlow* (1976) 58 Cal.App.3d 340, 347.)

3. The Lanterman Act mandates that an "array of services and supports should be established . . . to meet the needs and choices of each person with developmental disabilities . . . and to support their integration into the mainstream life of the community." (§ 4501.) Regional centers have the responsibility of carrying out the state's responsibilities to the developmentally disabled under the Lanterman Act. (§ 4620, subd. (a).)

4. "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 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." (§ 4512, subd (b).) The Lanterman Act directs regional centers to develop and implement an IPP for each individual who is eligible for services, setting forth the

services and supports needed by the consumer to meet his or her goals and objectives. (§ 4646.)

5. California Code of Regulations, title 17, section 58886, subdivision (a), entitled "General Requirements for Participant-Directed Services," states:

Effective October 1, 2011, for consumers and family members of consumers receiving the services in California Code of Regulations, Title 17, Section 54355 (g) (1), (3), (4), and (5), when these services are funded with federal financial participation through Medicaid programs, the regional center may offer Participant-Directed Services to allow the adult consumer and/or family member to procure their own community-based training service, day care, nursing, respite, and/or transportation services. Effective September 16, 2022, personal assistance, independent living services, and supported employment are included in the list of Participant-Directed Services.

6. When a Lanterman Act participant uses Participant-Directed Services, the participant is the co-employer, along with a Financial Management Service, of employees providing the services, including personal assistance services.

7. California Code of Regulations, title 17, section 58886, subdivision (e), provides that:

The regional center shall vendor the Employer and Co-Employer in accordance with vendor requirements contained in California Code of Regulations, Title 17,

Sections 54310 and 54326, in addition to the following requirements:

¶ . . . ¶

(6) Participant-Directed Personal Assistance -- Service Code 456 is a Personal Assistance service that assists the consumer with personal assistance and support to help the consumer be successful in their own home and in the community.

(A) A regional center shall classify a vendor as a Participant-Directed Personal Assistance Service if the vendor:

1. Is an adult consumer, family member, or conservator;
2. Selects an individual who is at least 18 years of age;
3. Ensures that the individual selected will possess the skill, training, or education necessary to provide the service in accordance with the IPP; and
4. Ensures that the individual is familiar with the consumer's daily routines and needs and is trained in any specialized supports necessary for the consumer.

8. California Code of Regulations, title 17, section 58886, subdivision (e)(6), does not specify who can provide personal assistance to an adult consumer. That provision only requires "an individual." (Cal. Code Regs., tit. 17, § 58886, subd. (e)(6)(A)(2).) If that person "assists the consumer with personal assistance and support

to help the consumer be successful in their own home and in the community” and fulfills the skills and age requirements under that section, a regional center will classify that individual as a “Participant-Directed Personal Assistance Service.” (Cal. Code Regs., tit. 17, § 58886, subd. (e)(6).)

Conversely, other provisions of California Code of Regulations, title 17, section 58886, subdivision (e), specifically provide whether a family member can serve in a particular position. For instance, section 58886, subdivision (e)(4)(A), states that, “The family member or adult consumer may either provide the transportation service or secure an individual to provide the transportation services identified in the consumer’s IPP[.]” Section 58886, subdivision (e)(2)(B), specifies that, “The family member may be the direct provider of the nursing service if the service is not intended to provide respite to the family member.” In addition, section 58886, subdivision (e)(5)(A)(2), states that, “A parent or conservator shall not be the direct support worker employed by the community-based training vendor[.]”

9. Because DDS has not explicitly stated in California Code of Regulations, title 17, section 58886, subdivision (e)(6), that a parent or conservator is prohibited from providing personal assistance, and considering the Lanterman Act’s status as a remedial statute, it is determined that California Code of Regulations, title 17, section 58886, subdivision (e)(6), allows for a parent or conservator to provide personal assistance so long as that individual “assist[s] the consumer with personal assistance and support to help the consumer be successful in their own home and in the community,” is at least 18 years of age, has the skill, training, or education necessary to provide the service in accordance with the IPP, is familiar with the consumer’s daily routines and needs, and is trained in any specialized supports necessary for the consumer. Claimant has established that his parent/conservator meets the

requirements of section 58886, subdivision (e)(6). On this basis, claimant's appeal is granted and claimant's parent/conservator may be paid for providing claimant personal assistance services without having to participate in the SDP.

ORDER

Claimant's appeal is granted. The parties are ordered to convene an IPP meeting for the purpose of discussing claimant's request to allow his parent/conservator to provide him with paid personal assistance services in accordance with the Lanterman Act and California Code of Regulations, title 17, section 58886, subdivision (e)(6).

DATE:

CARL D. CORBIN

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.