

## **Kaleb Xiong Response to Protective Supervision Denial**

**November 6, 2023**

1. *An assessment of your needs on 09/15/2023, found that you do not need 24-hour supervision to ensure your safety. (MPP 30-757.17)*

What specifically are the findings? This is a baseless blanket statement.

At the time of the assessment, Kaleb was a three-and-a-half years old (42 months) boy who is congenitally blind due to a condition called Persistent Hyperplastic Primary Vitreous (PHPV). PHPV is a congenital developmental anomaly of the eye that results following failure of the embryological, primary vitreous and hyaloid vasculature to regress (<https://pubmed.ncbi.nlm.nih.gov/11137427/>). This condition left Kaleb blind because his eyes were not normally developed with retinal detachment. This is a developmental disability that will affect his everyday living throughout his life. He requires 24-hour supervision to ensure his safety. In fact, Kaleb currently receives 1:1 support while in Pre-K Special Education because of this very need for 24-hour supervision to ensure his safety.

2. *Protective Supervision Service cannot be authorized for friendly visiting or other social activities. (MPP 20-757.172)*

This statement is not applicable. We have not asked for Protective Supervision for this purpose.

3. *Protective Supervision cannot be authorized when the need is caused by a medical condition and the form of the supervision needed is medical. (MPP 30-757.172)*

This statement is not applicable. Kaleb's blindness is not a medical condition but a developmental condition that was present at birth like conditions of cerebral palsy, down syndrome, intellectual disability, Autism, etc.

A medical condition is a condition that became present due to some sort of illness or injury where the person is taken from a point where they were in good health to a point where they now have poor health.

This is not the case for Kaleb. Kaleb was born blind and has been found to be delayed in many areas of development (cognitive functioning, adaptive functioning, speech and language development, foundational skills, academic skills, orientation & mobility, and social-emotional/behavioral functioning) when compared to other children his age based on a thorough psycho-educational/interdisciplinary assessment conducted by Elk Grove Unified School District (EGUSD). His Individual Education Plan (IEP) listed Visual Impairment and Speech or Language Impairment as the qualifying disabilities for Special Education.

4. *Protective Supervision cannot be authorized in anticipation of a medical emergency. (MPP 30-757.172)*

This statement is not applicable. We have not asked for Protective Supervision for this purpose.

5. *Protective Supervision Service cannot be authorized to prevent or control a recipient's anti-social or aggressive behavior. (MPP 30-757.172)*

This statement is not applicable. Our request for Protective Supervision has nothing to do with Kaleb being anti-social or aggressive. Kaleb, however, does present some behaviors due to his autistic tendencies. Kaleb's pediatrician, Dr. Yee-Guardino has referred Kaleb for evaluation for Autism Spectrum Disorder (ASD).

6. *Protective Supervision Service cannot be authorized to guard against deliberate self-destructive behavior, such as suicide, or when an individual knowingly intends to harm himself/herself. (MPP 30-757.172)*

This statement is not applicable. Kaleb does not knowingly intend to harm himself. He does engage in self-injurious behaviors, but they are behaviors that manifest unconsciously/automatically for soothing purposes consistent with people with autistic tendencies. Dr. Yee-Guardino made this point in the SOC 821 form.

7. *You are not eligible for IHSS Protective Supervision because IHSS Protective Supervision is not for medical supervision. Your case information shows that the supervision you need is medical or for a medical condition. (MPP Section 30-757.172(b))*

This statement says that Kaleb's need for Protective Supervision is due to a need for medical supervision or because of a medical condition. This conclusion is a baseless statement and not applicable to Kaleb. What evidence does the County have that Kaleb's need for Protective Supervision is medical or for a medical condition?

While Kaleb DOES NOT have a medical condition that warrants medical supervision, Kaleb DOES HAVE developmental disabilities, both physical and mental, that do warrant protective supervision based on criteria set by regulation (MPP Section 30-757.173).

Kaleb was born blind – a physical developmental disability. His medical records have documented this fact. A thorough examination of his eyes was conducted by Dr. Armin R. Afshar when Kaleb was two months old. Dr. Afshar stated:

"Findings are consistent with bilateral persistent hyperplastic primary vitreous, with funnel retinal detachment to the lens and retina adherent to the lens in the right eye, and posterior retinal detachment and stalk to the lens. Both eyes are buphthalmic and have neovascularization of the iris, suggestive of severe ischemia, and there is vitreous hemorrhage visible in the left eye on exam and blood products visible in the both eyes on MRI."

Following this examination, Kaleb received multiple surgeries by Dr. Melissa Deanne Neuwelt and Dr. Irma Muminovic to correct the anomaly, but all attempts were unsuccessful. Kaleb's doctors have determined that it is best not to perform more surgeries.

Kaleb is also suspected to be on the Autism spectrum. He has displayed many behaviors and tendencies consistent with people with ASD, among other things. Some examples are the following:

- Kaleb can remember things he has been told but only sometimes understands what they mean.
- When he is asked what his mother's name is, he answers with his dad's name or his name. It's hit-and-miss.
- He engages in echolalia and stimming daily.
- He would make phrases (weird sounds/noises) and twirls.

- He jumps around all of the time.
- He can't stand loud sounds or noises and plugs his ears with his fingers.
- He loses his toys or puts them away but can't remember where they are. Consequently, he unconsciously/automatically engages in self-injurious behaviors to sooth himself.
- He always has to have an object in his hand.
- When he doesn't want to do something, instead of saying he doesn't want to do it, he says, "My name is Neejtsim ..."  
Neejtsim is his Hmong name.

These are some examples of Kaleb's autistic tendencies. Because of these symptoms, Dr. Yee-Guardino has referred Kaleb to be evaluated for ASD.

Also, Dr. Yee-Guardino had certified on the SOC 821 form that Kaleb is severely impaired in memory, orientation, and judgment. She provided explanations for each of these categories. Her explanations support Chris Peterson's observations. Chris Peterson is Kaleb's Orientation & Mobility Specialist and teacher of the Visually Impaired. He provided a letter dated October 3, 2023, stating that Kaleb exhibits a lack of judgment or a clear understanding of his immediate environment due to his blindness, which makes him unsafe without consistent supervision, and that protective supervision should be provided for Kaleb's personal safety and well-being. Again, Kaleb's blindness is not a medical condition but a developmental disability.

In summary, there is overwhelming evidence supporting Kaleb's need for 24-hour supervision for him to remain at home safely. EGUSD's reports, Kaleb's IEP, the multiple SOC 821 forms, especially the most recent one that was completed by Kaleb's pediatrician, Dr. Yee-Guardino, and we, as seasoned parents of a total of 8 children, testify that Kaleb's needs are more than of a typical toddler his age due to his blindness and ASD. He is now 44 months old. We, as parents, see Kaleb's struggles daily to learn, grow, and remain safe. Third-party professionals from both the school and medical communities corroborate with our position that Kaleb should be offered Protective Supervision.