

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

**In the Matter of the Fair Hearing of:**

**CLAIMANT**

**v.**

**KERN REGIONAL CENTER, Service Agency**

**OAH No. 2020090384**

**DECISION**

Rommel P. Cruz, Administrative Law Judge, Office of Administrative Hearings, State of California, heard this matter by videoconference on October 9, 2020.

Attorney Matthew Bahr appeared on behalf of Kern Regional Center (KRC or Service Agency).

Claimant's mother (Mother) appeared on behalf of Claimant. Claimant attended portions of the hearing.<sup>1</sup>

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<sup>1</sup> Claimant and his family members are identified by titles to protect their privacy.

Oral and documentary evidence was received. The record was closed and the matter was submitted for decision on October 9, 2020.

## **ISSUE**

Is the Service Agency required to fund the purchase and installation of a swing door and keypad lock to replace a sliding door in Claimant's home?

## **EVIDENCE RELIED UPON**

Documents: Claimant's exhibits A through E; Service Agency's exhibits 1, 2, and 5.

Testimony: Mother, Claimant's neighbor, and KRC's Assistant Director of Client Services Kristine Khuu.

## **FACTUAL FINDINGS**

### **Jurisdiction and Background**

1. Claimant was 17 years old at the time of the fair hearing and an eligible consumer of KRC based on his diagnoses of Autism Spectrum Disorder. According to an assessment in November 2016, Claimant's intelligence quotient standard score was 31. (Ex. A, p. 2) Mother testified that Claimant's cognitive functioning was that of a 12-month old, with the ability to perform certain functions at a slightly higher level.

2. Mother testified that approximately 10 years ago, KRC installed a security door on the front door and keyless keypad entry door locks, referred to as keypad

locks, on the front entry door and on the door leading to the garage to prevent Claimant from eloping from home. The keypad locks were installed such that the keypad faced the interior of the home. (Ex. C, at p. 3.) The keypad locks use numerical keys, and are unlocked using a numerical code. (*Id.* at p. 2.) Claimant is unable to enter the numerical code to unlock the keypad lock. A numerical code is shared between Mother and Claimant's younger sister, the only other residents in the home. The only other exit from the home is through a glass sliding door to the backyard.

### **Claimant's IPP**

3. According to Claimant's most recent individual program plan (IPP)<sup>2</sup> dated April 9, 2020, Claimant is non-verbal and communicates using gestures by pulling Mother for a desired want or need. (Ex. 5, p. 2). He can be aggressive, and will pull Mother's hair, scratch, pinch, or bite her when he does not get his way. (*Ibid.*) He will also direct his anger at his younger sister. Thus, Claimant requires constant supervision. He elopes from home and wanders out in the neighborhood. (*Ibid.*) He also displays self-injurious behaviors and temper tantrums on a daily basis, which involve banging his head against the walls. An objective in Claimant's IPP called for him to "reside in the most nurturing, safe, appropriate, and least restrictive home environment." (*Id.* at p. 11.)

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<sup>2</sup> The Lanterman Act requires regional centers to create a person-centered individual program plan, referred to as an IPP. (Welf. & Inst. Code, § 4646.)

## **Request for Home Modification**

4. Mother testified that Claimant is able to scale over the home's backyard fence. Mother locked the sliding door using various methods, such as pins. However, Claimant learned to remove the pins and can now open the sliding door on his own. At the hearing, Mother described Claimant as strong and much taller than her.

5. Mother and a neighbor testified that Claimant would scale the backyard fence and enter his neighbors' yards, homes, and garages. Claimant has also injured himself during his elopement. In one instance, he eloped when Mother was helping his sister with distance learning. Mother found him 15 minutes later, severely injured with a fractured humerus. (Ex. E.)

6. Mother sought to install either a keyed lock or keypad lock near the sliding door handle. However, Mother testified that according to a locksmith, those types of locks could not be installed on the glass sliding door. (Ex. D.) However, a keypad lock can be installed on a swing door. (Ex. C, p. 3) Mother then sought funding from KRC to replace the sliding door with a swing door and keypad lock.

7. KRC provided Claimant a notice of proposed action dated August 7, 2020. (Ex. 1, p. 7) The notice explained KRC was denying Claimant's request to fund a number of items, including replacing the sliding door. The denial was based on the need to use generic resources to fund the request, the request did not conform to KRC's purchase of service guidelines, and the request did not alleviate Claimant's developmental disability. On August 20, 2020, Mother on behalf of Claimant, filed a fair hearing request to appeal KRC's decision to deny funding to replace the sliding door.

8. At the hearing, Mother was asked about whether she considered using a keyed lock designed for a glass sliding door. She explained that she did not wish to use a keyed lock as she was concerned she would lose the key. When asked about using a combination lock box to hold a spare key that could be secured in the vicinity of the sliding door, she opined that it would be too cumbersome having to access the lock box to lock and unlock the door each time she stepped out into the backyard. Mother expressed the need to be able to quickly exit the door, which she said a keypad lock would allow. She also testified that installing a door alarm to alert her when the sliding door is opened would not work as she would not be able to respond in time to prevent Claimant from getting out to the backyard.

9. KRC's Assistant Director of Client Services Kristine Khuu testified. She explained that KRC denied funding to replace the sliding door with a swing door and keypad lock because the request was not cost-effective and was contrary to the achievement and maintenance of an independent, productive, and normal life for Claimant where only Mother and Claimant's sister knew the numerical code to unlock the keypad lock.

10. Mother provides full-time support for Claimant and is a single parent. She testified that the cost of replacing the sliding door with a swing door would be a financial hardship on the family.

## LEGAL CONCLUSIONS

### Jurisdiction and Burden of Proof

1. The Lanterman Act governs this case. (Welf. & Inst. Code, § 4500 et seq.)<sup>3</sup> An administrative “fair hearing” to determine the respective rights and obligations of the consumer and the regional center is available under the Lanterman Act. (§§ 4700-4716.) Claimant requested a fair hearing to appeal the Service Agency’s denial of his request for funding to purchase and install a swing door and keypad lock to replace a sliding door in his home. Jurisdiction in this case was thus established. (Factual Findings 1 and 7.)

2. Because Claimant seeks benefits or services, he bears the burden of proving he is entitled to the service requested. (*Lindsay v. San Diego Retirement Bd.* (1964) 231 Cal.App.2d 156, 161.) Claimant must prove his case by a preponderance of the evidence. (Evid. Code, § 115.)

3. The Lanterman Act acknowledges the state’s responsibility to provide services and supports for developmentally disabled individuals and their families. (§ 4501.) The Lanterman Act gives regional centers, such as KRC, a critical role in the coordination and delivery of services and supports for persons with disabilities. (§ 4620, et. seq.)

4. The Legislature’s intent in enacting the Lanterman Act was to ensure the rights of persons with developmental disabilities, including the “right to treatment and

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<sup>3</sup> Further statutory references are to the Welfare and Institutions Code.

habilitation services and supports in the least restrictive environment.” (§ 4502, subd. (b)(1).) “Treatment and habilitation services and supports should foster the developmental potential of the person and be directed toward the achievement of the most independent, productive, and normal lives possible.” (*Ibid.*) The services shall protect the personal liberty of the individual and shall be provided with the least restrictive conditions necessary to achieve the purposes of treatment, services, or supports. (*Ibid.*)

5. The Lanterman Act defines services and supports to mean specialized services and supports or special adaptation of generic services and supports directed towards the:

- Alleviation of a developmental disability;
- Social, personal, physical, or economic habilitation or rehabilitation of an individual with a developmental disability; or
- Achievement and maintenance of independent, productive, and normal lives.

(§ 4512, subd. (b).) The determination of which services and supports are necessary for each consumer shall be based on the needs and preferences of the consumer, or when appropriate, the consumer’s family. (*Ibid.*) Consideration must be given to a range of service options proposed by the IPP participants, the effectiveness of each option in meeting the goals stated in the IPP, and the cost-effectiveness of each option. (*Ibid.*)

6. Claimant contends the swing door with a keypad lock is necessary for Claimant’s safety to prevent him from eloping into community, and to allow him to remain in least restrictive environment. KRC contends replacing the sliding door is

neither necessary nor cost-effective, and is contrary to promoting independence and normalcy for Claimant.

7. The evidence did not establish that replacing Claimant's sliding door with a swing door and keypad lock is a necessary, cost-effective service. Claimant's request to replace the sliding door with a swing door is solely based on the ability of the swing door to accommodate a keypad lock, to be installed to restrict Claimant's access to the backyard as needed. However, a swing door with a keypad lock is not a necessary, cost-effective option to secure access to the backyard.

8. More cost-effective means are available that do not require replacing the sliding door with a swing door and keypad lock. Claimant argues a keypad lock would restrict Claimant's access to the backyard and still allow for a quick, convenient exit when needed. However, though a keyed locking mechanism on the sliding door could be less convenient than a keypad lock, it does not render the keypad lock, in addition to a swing door, necessary. A keyed locking mechanism can still achieve the same objective, restrict Claimant's ability to access the backyard unattended.

9. As to the inconvenience of using a key instead of a keypad, the evidence did not demonstrate that having a key in a secured, accessible location near the sliding door or on Mother's person was unworkable or overly burdensome. A degree of inconvenience is to be expected when additional layers of security is added to any door in a home. Here, the sliding door need only be locked as needed to prevent Claimant from exiting the home when momentarily unsupervised by Mother. In addition, a combination lock box to securely hold extra keys is a cost-effective way to address Mother's concerns of losing keys.



10. Furthermore, not only is replacing a sliding door with a swing door and keypad lock not necessary and cost-effective, it creates a safety concern for anyone in the home by requiring a numerical code at all times to unlock the exits. Pursuant to the California Building Code, egress doors shall be readily openable from the egress side without the use of a key or special knowledge or effort. (Cal. Code Regs., tit. 24, § 1010.1.9) This Decision makes no determination as to the legality of having a keyed lock on the sliding door in addition to requiring a numerical code to exit from the remaining exits in the home. However, installing a keyed lock or keypad lock on the backyard exit, thus requiring a key or keypad code at all times to exit the home may create safety issues governed by regulations. The parties shall address these concerns at the next IPP meeting. Therefore, Claimant failed to meet his burden in proving KRC is required to fund the purchase and installation of a swing door and keypad lock.

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## **ORDER**

Claimant's appeal is denied. The Service Agency is not required under the Lanterman Act to provide funding to replace Claimant's sliding door with a swing door and keypad lock.

DATE:

ROMMEL P. CRUZ

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.