

BEFORE THE  
OFFICE OF ADMINISTRATIVE HEARINGS  
STATE OF CALIFORNIA

In the Matter of Claimant's Request for  
Funding for Driving School:

OAH No. 2015070615

CLAIMANT,

and

INLAND REGIONAL CENTER,

Service Agency.

DECISION

Kimberly J. Belvedere, Administrative Law Judge, Office of Administrative Hearings, State of California, heard this matter in San Bernardino, California, on August 24, 2015.

Stephanie Zermeño, Consumer Services Representative, Fair Hearings and Legal Affairs, represented Inland Regional Center (IRC).

Claimant represented himself.

The matter was submitted on August 24, 2015.

ISSUE

Should IRC fund claimant's request to attend driving school?

FACTUAL FINDINGS

JURISDICTIONAL MATTERS

1. On June 26, 2015, IRC served claimant with a notice of proposed action denying claimant's request for funding to attend driving school.
2. On July 10, 2015, IRC received claimant's request for a fair hearing objecting

to IRC's decision, and this appeal followed.

### CLAIMANT'S BACKGROUND

3. Claimant is a nineteen-year-old male. He qualifies for regional center services on the basis of a diagnosis of autism. IRC currently funds applied behavioral analysis services from Pedro Villa and 24 hours per month of respite care with In-Roads. Claimant attends Riverside Community College and is taking general education courses. He also takes judo classes at the University of California, Riverside. Claimant lives at home with his parents and four siblings. He receives approximately \$658 dollars a month in social security income, and receives \$2,760 in federal financial aid to attend school. Claimant does not work but plans to look for work in two years when he expects to graduate from college.

### IRC'S EVIDENCE PRESENTED AT HEARING

4. IRC Consumer Services Coordinator Yolanda Gonzalez testified at the hearing. According to Ms. Gonzalez, claimant requested funding to attend 10 to 20 hours of behind-the-wheel training at a driving school because claimant believes he would benefit from the driving instruction, and claimant's father was too nervous to teach claimant how to drive. No one else in claimant's family has a driver's license. Ms. Gonzalez considered claimant's request. She contacted Another Way to determine if that generic resource would be available to fund claimant's requested service.<sup>1</sup> Another Way could not provide the service, and Ms. Gonzalez was not aware of any other generic resources that would be available to fund claimant's request to attend driving school. Ms. Gonzales could

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<sup>1</sup> Another Way is a self-sustaining emergency fund that is maintained and administered by IRC staff. Each participating staff member donates personal time and money to provide services to individuals with developmental disabilities.

not locate any vendors at IRC that provided driving instruction.

5. IRC Program Manager Olivia Gutierrez testified at the hearing. According to Ms. Gutierrez, an informal meeting was held with claimant on July 28, 2015, regarding claimant's request to attend driving school. At the meeting, claimant provided Ms. Gutierrez with the name and vendor number of a vendor that provides professional driving instruction to consumers at East Los Angeles Regional Center. Ms. Gutierrez checked IRC's list of vendors, and the list did not contain the name of the vendor that claimant provided. Due to the fact that claimant was requesting the driving instruction in order to be able to attend work, Ms. Gutierrez told claimant to consult with the Department of Rehabilitation, a generic resource, to obtain the requested service.

Ms. Gutierrez testified that claimant's request for IRC to fund driving school was denied because driving is not a right or a needed service to help alleviate the effects of a developmental disability; generic resources had not been exhausted; natural supports should be relied upon to provide driving instruction; and IRC did not have any vendors that provide driving instruction.

#### CLAIMANT'S EVIDENCE PRESENTED AT HEARING

6. Claimant wants to learn how to drive and obtain a driver's license because he wants to become a contributing member to his family by being able to run errands, drive himself to school, obtain work, and not be a burden to his family. Claimant also wants to be able to drive to out-of-town locations to seek assistance for his asthma, autism, and obesity, and cannot do so without a license. Finally, claimant wants to be able to drive himself to work in two years when he anticipates graduating from school.

Claimant believes that the public transportation in his area is dangerous, because the busses go through a "gang-infested" area. Claimant also attends extra-curricular sports classes at night when public transportation is not available.

Claimant currently has a driving permit. He believes that he needs behind-the-

wheel driving instruction in order to make him a better and safer driver. Claimant's father is older and has diabetes so his vision is not good. Claimant's father also gets nervous teaching claimant how to drive. Because nobody else in claimant's family has a driver's license, claimant began searching for vendors that could provide behind-the-wheel driving instruction through a regional center. He located California Driving School, a vendor of the East Los Angeles Regional Center, and provided the vendor number to IRC. Although he does not know how many hours he would need to attend, claimant testified that the California Driving School would perform a driving assessment to ascertain how many hours would be necessary given claimant's skill level. Claimant anticipates needing approximately 10 to 20 hours of instruction at \$139 per hour.

Claimant did contact the Department of Rehabilitation; however, that department denied his request to fund driving school because it was not needed for work. Moreover, according to claimant, the department provides adaptations to assist their consumers with access to vehicles, not professional driving instruction.

Claimant's family does not have the money to pay for driving school, and claimant only has \$98 a month after all his personal and school-related expenses are paid.

Claimant's mother, testified at the hearing. Claimant's mother agreed with claimant's testimony and expressed her desire that IRC fund claimant's request to attend driving school.

## LEGAL CONCLUSIONS

### BURDEN OF PROOF

1. In a proceeding to determine whether an individual is eligible for services, the burden of proof is on the claimant to establish that by a preponderance of the evidence that IRC should fund his request to attend driving school. (Evid. Code, §§ 115, 500; *McCoy v. Board of Retirement* (1986) 183 Cal.App.3d 1044, 1051-1052.)

## THE LANTERMAN ACT

2. The Legislature enacted a comprehensive statutory scheme known as the Lanterman Developmental Disabilities Services Act (Welfare & Inst. Code, § 4500 et seq.) to provide a pattern of facilities and services sufficiently complete to meet the needs of each person with developmental disabilities, regardless of age or degree of handicap, and at each stage of life. The purpose of the statutory scheme is twofold: to prevent or minimize the institutionalization of developmentally disabled persons and their dislocation from family and community, and to enable them to approximate the pattern of everyday living of nondisabled persons of the same age and to lead more independent and productive lives in the community. (*Association for Retarded Citizens v. Department of Developmental Services* (1985) 38 Cal.3d 384, 388.) Welfare and Institutions Code section 4501 outlines the state's responsibility for persons with developmental disabilities and the state's duty to establish services for those individuals.

3. Welfare and Institutions Code section 4512, subdivision (b) defines "services and supports" as:

[S]pecialized 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 independent, productive, normal lives. 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 . . . Nothing in this subdivision is intended to expand or authorize a new or different service or support for any consumer unless that service or support is contained in his or her individual program plan.

4. The State 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.) 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.)

5. A regional center's responsibilities to its consumers are set forth in Welfare and Institutions Code sections 4640-4659.

6. Welfare and Institutions Code section 4646 requires that the Individual Program Plan and the provision of the services and supports be centered on the individual with developmental disabilities and take into account the needs and preferences of the individual and the family. Further, the provisions of services must be effective in meeting the IPP goals, reflect the preferences and choices of the consumer, and reflect the cost-effective use of public resources.

7. Welfare and Institutions Code section 4648 requires regional centers to ensure that services and supports assist individuals with developmental disabilities in achieving the greatest self-sufficiency possible and to secure services and supports that

meet the needs of the consumer, as determined by the IPP. This section also requires regional centers to be fiscally responsible.

8. In implementing Individual Program Plans, regional centers are required to first consider services and supports in natural community, home, work, and recreational settings. (Welfare & Inst. Code, § 4648, subd. (a)(2). Services and supports shall be flexible and individually tailored to the consumer and, where appropriate, his or her family. (*Ibid.*) A regional center may, pursuant to vendorization or a contract, purchase services or supports for a consumer in order to best accomplish all or any part of the Individual Program Plan. (Welfare & Inst. Code, § 4648, subd. (a)(3).)

9. The regional center is required to consider all the following when selecting a provider of consumer services and supports: a provider's ability to deliver quality services or supports to accomplish all or part of the consumer's individual program plan; provider's success in achieving the objectives set forth in the individual program plan; the existence of licensing, accreditation, or professional certification; cost of providing services or supports of comparable quality by different providers; and the consumers, or, where appropriate, the parents, legal guardian, or conservative of a consumer's choice of providers. (Welfare & Inst. Code, § 4648, subd. (a)(6).)

10. 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. (Welfare & Inst. Code, § 4646.4.)

11. Welfare and Institutions Code Section 4646.4, subdivision (a), requires IRC to adhere to its Purchase of Service Standards (POS) when determining what services it will fund. As IRC explained, its current POS does not provide funding for driver's training for its consumers.

#### CAUSE DOES NOT EXIST TO REQUIRE IRC TO FUND DRIVING SCHOOL

12. The Lanterman Act and the applicable regulations set forth criteria that a

claimant must meet in order to qualify for regional center services. Claimant had the burden of demonstrating his need for the requested service or support, funding for driving school. Claimant has not met that burden.

Claimant testified credibly that he sought generic resources from the Department of Rehabilitation but that funding for the driving school was denied on the basis that it was not for the purposes of employment. Claimant further provided evidence that driving school is a service or support funded by the East Los Angeles Regional Center. However, IRC does not have a vendor for driving school or any kind of behind-the-wheel driver training classes like those claimant is seeking. Each regional center functions independent of the other. Therefore, just because a resource is offered at one regional center does not mean it is available at another regional center, or that one is automatically entitled to that benefit under the Lanterman Act.

Claimant is to be commended for seeking what he believes to be necessary practical driving instruction in order to become more self-sufficient, assist his family with day-to-day needs, and become a better driver. However, driving instruction is not identified in claimant's IPP and he failed to prove that professional driving instruction is needed to alleviate his disability. The Lanterman Act therefore would not apply, under the circumstances.

## ORDER

Claimant's appeal from Inland Regional Center's determination that it will not fund driving school is denied.



DATED: September 3, 2015

\_\_\_\_\_/s/\_\_\_\_\_  
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KIMBERLY J. BELVEDERE

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 ninety days.**