

BEFORE THE  
OFFICE OF ADMINISTRATIVE HEARINGS  
STATE OF CALIFORNIA

In the Matter of:

CLAIMANT

and

SAN GABRIEL/POMONA  
REGIONAL CENTER,

Service Agency.

OAH No. 2017111015

DECISION

Jennifer M. Russell, Administrative Law Judge with the Office of Administrative Hearings, heard this matter in Pomona, California on January 22, 2018. Daniela Santana, Program Manager, represented San Gabriel/Pomona Regional Center (SGPRC or service agency). Claimant appeared and represented herself.<sup>1</sup>

Testimonial and documentary evidence was received, the case argued and the matter submitted for decision at the conclusion of the hearing. The Administrative Law Judge makes the following Factual Findings, Legal Conclusions, and Order.

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<sup>1</sup> To preserve Claimant's privacy and confidentiality, she and her service providers are not identified by name.

## ISSUE

The sole issue for determination is whether the service agency should terminate Claimant's existing Supported Living Services with Horizon Supportive Living Service and provide Claimant with options for a different supported living service provider.

## FACTUAL FINDINGS

1. Claimant is a 53-year-old woman with a diagnosis of mild Intellectual Disability. She presents with a history of Acute Cerebella and Brainstem stroke. She has chronic veins insufficiency and chronic legs edema dependency. She takes multiple medications, including Furosemide for water retention. Claimant resides with four of her five children, who are consumers of Lanterman Act<sup>2</sup> services and supports, in a rented four-bedroom home. Among other services and supports, SGPRC funds 40 hours of Support Living Services (SLS)<sup>3</sup> for Claimant each month through Horizon Supportive Living Service (Horizon).

2. Claimant's most recent Individual Program Plan Annual Progress Report (IPP) lists several "Desired Outcomes." Horizon's role to effectuate those outcomes is identified as follows in the IPP:

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<sup>2</sup> The Lanterman Act is the short-hand reference for the Lanterman Developmental Disabilities Services Act, which is codified at Welfare and Institution Code section 4400 et seq.

<sup>3</sup> SLS is included in the full array of service agency-funded services and supports known as "supported living arrangement," which a developmentally disabled person may receive pursuant to the Lanterman Act.(See Welf. & Inst. Code, § 4512, subd. (b); Cal. Code Regs., tit. 17, § 58601.)

**Outcome# 1:** [Claimant] will attend required medical appointments, follow her doctor's recommendations and be seen as directed to maintain her health. [¶. . . ¶]

Horizon will assist in all areas of [Claimant's] medical needs and encourage [her] to see all her doctors regularly.

Horizon will provide assistance at all her medical appointments to ensure proper information is getting to [Claimant].

Horizon will monitor and assist if needed in making sure [Claimant's] foods are the consistency need to ensure no choking.[¶]

**Outcome# 2:** [Claimant] would like to maintain her independence by living in a nice home with her 4 children.

Horizon will assist [Claimant] in all daily living needs such as banking, bill paying, medical, etc.

**Outcome# 3:** [Claimant] will walk and watch her diet daily to loose [sic] some weight over the next year.

Horizon will assist [Claimant] in a grocery list filled with healthy fruits and vegetables along with lean meats [sic].

Horizon will encourage [Claimant] to walk and be healthier in her daily living.

(SGPRC Exh. 3.)

3. Several SLS Progress Reports by Horizon were offered at the hearing. (See SGPRC Exh. 6.)<sup>4</sup> The SLS Progress Reports for the periods July 1 through December 31, 2016 and January 1 through June 30, 2017 best convey Claimant's current situation.

a. The SLS Progress Report for July 1 through December 31, 2016 provides the following:

#### HEALTH MAINTENANCE AND PERSONAL CARE

[Claimant's] health is deteriorating due to the excessive swelling of her feet, huge varicose veins, dizziness, and constant stomach ailments. Her feet are so massive that her toes have totally disappeared leaving little indents where the toes should be. The swelling makes it impossible for her to walk around at home and in the community and she is constantly moaning in pain from the swelling of her feet and painful varicose vein. Her feet swell so much that she cannot walk and toes cannot be seen making it impossible for her to put weight on it. The water pills have little to no effect in reducing the swelling. She is currently trying to get around on a walker but it is getting to the point that she will need a wheel chair and need personal support for herself. She has

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<sup>4</sup> (See also Claimant Exhs. 11, 12, 14, 15, 16, 18, 19, 20, 21, and 22.)

acid reflux which creates stomach discomfort and bloating. She is always nauseous which is made worse by her heightened sense of smell. She has dizzy spells which cause her to fall on and off leaving some bruises on her body from the fall. She falls several times a day in her house which leaves her sore around the thigh and hip area. She often gets stomach aches with a burning sensation and nausea, complains a lot about headaches and cold. She continues to receive support to eat diets that are in low salt and fat and to take her medicine at the right dose and time. [Claimant] receives support on preparing low fat, low salt, low sugar, and nutritious meals for her family.[1]

[Claimant] continues to have a frequent visit with her primary care physician due to the swelling of her feet on 9/14/16, 9/22/16 and 9/27/16. Her doctor added additional medication to help her manage the swelling and pain in her legs. Her doctor also recommends a vascular test to check for blood clot and submitted request for approval. On 10/4/16, [Horizon] supported consumer in visiting her doctor for pain and requested for authorization for double vascular test. She continues and will need support in reviewing her medications as recommended due to her memory loss. . . .[1]

## MONEY MANAGEMENT AND SHOPPING

[Claimant] continues to receive support in budgeting her money on monthly basis. She receives ongoing support in cashing her checks from social security on the first of every month. . . . She appears to be reverting to her old habits of leaving bills unpaid so that she can have more money to shop. The SLS instructor continues to give her support to stay on her budget and to pay bills first before making unnecessary purchases. During this service period, consumer chose not [to] pay her cable bill together with the telephone bills and other utility bills that resulted in receiving notice of termination of service for the months of November and December. She paid only portions of her light, water and gas bills leaving a huge outstanding balance. She is extremely extravagant and wasteful, shopping impulsively and her children waste lots of food. She continues to run out of money before the end of the month. Without the instructor's intervention and persuasion, [Claimant] will spend a couple thousand dollars in less than a week in frivolous items. To prevent her from taking off with her family's funds, the instructor takes her to the post office to cash her checks to pay her various bills including the rent, electricity, gas, water, cable, telephone, purchase food and pay other outstanding bills that are due.

[Claimant] continues to receive support initiating and completing purchasing transactions at [several] stores[.] She shops in Pasadena because all the stores she likes to shop are all in Pasadena. There is no nearby affordable store in her community to shop as such spends between 8-10 hours on the first shopping for her needs. She takes longer to complete any of the regular tasks she usually performs because of the difficulty she is having with her legs and is prone to falling.

## HOME AND COMMUNITY SAFETY

The instructor continues to provide support utilizing house phone in getting information within her community especially important phone numbers . . . . She has recurring problems with her plumbing which requires the plumber to work on it every third week. There is a tree on the street in front of her home that is blocking the sewage pipe running from her house into the central sewage line. The tree belongs to the City who has refused to cut it down creating the backup of sewage into [Claimant's] yard. [Horizon] . . . has been working with her landlord to address the issues and has received permission to call a plumber each time there is a backup which is about every third week. However, [Claimant] waits until fecal matter start to accumulate in the yard before she informs her instructor. She received assistance researching for a plumber in her area to unclog

her pipes. Her plumbing pipes were also clogged with rolls of toilet paper making it impossible for water to flow. Thus, water mixed with feces and toilet rolls gush out of her main pipe in front of her kitchen area. Flies hovered around her kitchen window and front yard picking on the feces and made it difficult to enter her house. [Horizon] staff supported [Claimant] in finding and waiting for the plumber's arrival to unclog the pipes. Pictures were taken and sent to the landlord for verification. She also received support meeting with the landlord to discuss issues regarding the plumbing problems. Client and her children always misuse the toilet and had been advised several times not to dump toilet paper into the toilet bowl but rather into the trash can. Consumer and her children were supported in burying and covering lumps of feces in front of her kitchen window. The smell makes [Claimant] sick and forces her to call her instructor several times a day for help. The plumbing problem is an ongoing thing since the landlord is fighting the city for permission to cut down the tree that is causing blockage. [Claimant] and her children are not helpful with the matter since they use a lot of toilet paper that cause the back up. [Claimant] and her children have the habit of leaving their windows and doors unlocked throughout the night. [Horizon] support her in utilizing sticks in blocking the window from opening for safety.

## PERSONAL AND HOUSEHOLD MANAGEMENT

[Claimant] and her family continue to receive ongoing support in maintaining a clean and safe home environment. She is still struggling to keep the home in a livable condition. Her family is very messy and does not know how to clean. Her house stinks most of times and her older son and daughter do not help her with the house up keep. She was supported in assigning tasks to her children since she complains all the time about her children not helping her. However, [Claimant] continues to do most of the work preparing their meals and keeping the home clean all by herself. She has bad and good days since her health has become a problem for her. The instructor supported her in establishing a schedule to maintain a clean, safe and orderly home.

## MEAL PREPARATION

The instructor has created better meal plans that are low in fat and sodium. She has been teaching consumer to prepare oatmeal by cooking it slowly in water and milk to make it creamy and easier for [Claimant] to eat, spinach soup, and fish soup to encourage her to eat healthier meals. However, [Claimant] seems to be returning to her old habits of eating foods loaded with fat, salt, and drinking a lot of sugary beverages. The high sodium intake worsens her feet swelling

and causes her pain. The instructor continues to struggle, monitoring her eating habit to make her make changes to her diet especially the food she buys and consumes.

## SELF-ADVOCACY AND PARENTING TRAINING

[Claimant] continues to have difficulty advocating for herself and her family. She continues to need intensive support to solve her personal problem and make informed decisions by getting information from peers, family, and professionals. She had problems with her plumbing and was supported in contacting her landlord to address the issues. She received assistance researching for a plumber in her area to unclog her pipes. . . . She will continue to need help communicating with the landlord in regards to her plumbing problems.

Consumer's landlord has asked her to start looking for a place to move since the City might mandate him to restructure the house per the code. She needs to start looking for a place that will accommodate her and her four children and at the same time be affordable. She switched her cable service provider and [Horizon] supported her in calling and making payment arrangement to pay off her past due balance. She was also supported in packaging the cable boxes and returned it . . . . She received assistance contacting Charter Company for bill clarification and asking for payment arrangement to avoid disconnection of services. She also has

past due bill from Azusa Light and Water and received notice to disconnect. [Horizon] staff also assisted her in making payment arrangement to avoid disconnection of services. She was also supported in requesting income verification at Social Security Administration and applied for Azusa Light and Water discount program at the City of Azusa.[¶ . . . ¶]

(SGPRC Exh. 6h.)

- b. The SLS Progress Report for the period January 1 through June 30, 2017 provides the following:

#### HEALTH MAINTENANCE AND PERSONAL CARE

During this period, [Claimant] gained 19 pounds and lost 30 pounds. . . . She has changed the way she cooks and the meals she prepares for herself. She has cut out much of the fat in her diet to help her loose [sic] weight and was able to loose [sic] 30 pounds in the last 3 months. The weight loss has allowed her to start walking very short distances to help her loose [sic] more weight. She was given support to make and keep appointments with [her physician].

#### HOME AND COMMUNITY SAFETY

[Claimant] has received support in contacting the landlord for ongoing problems in her home such as plumbing issues created by the city tree, missing window screens which [Claimant's] son . . . destroys all of the time and fixing the

lock on her front door which was getting struck. [Horizon] staff has to call a plumber once a month to unclog the pipe going from the house into the main sewer because the city's tree roots block the pipe often creating back up and spill of sewage onto her front yard. After each repair [Horizon] staff has to work with [Claimant's] children to bury fecal matter left in the yard. [Horizon] staff and the landlord have tried several times to get the city's permission to cut the tree but each request has been denied.

[Claimant] would like to move to another home but is not motivated to save money for the first and last rent to make a move successful. In addition, she has very bad credit, appears disheveled and unkempt most times but refuses to change and all of the applications for housing have received no response. Her SLS instructor continues to address, remind and prompt her to dress well whenever she is out in the community or searching for a house. She has emphasized that she does not care about her looks several times and that her instructor cannot change the way she wants to appear. The lack of available homes for rent within their price range of \$1600-\$1800 per month is a problem. Houses in decent areas continue to be very expensive and her income will not qualify her for a house that would accommodate a family of five. [Claimant] continues to receive intensive support in searching for an affordable house for rent . . . It has been

tough and very challenging to find a house because of appearance and family size. She is still receiving support on making sure that all windows and doors are locked at night and open during the day for ventilation and safety. She continues to be reminded to keep an eye on her son's movement to prevent turning on the gas to avoid leakage in their house.

#### PERSONAL MANAGEMENT

[Claimant] was supported in paying her utility bills . . .  
[Claimant] was supported in inquiring about benefit reduction due to over payment of her children's SSI income from the Social Security Administration.

#### MONEY MANAGEMENT AND SHOPPING

[Claimant] has stated a desire to open another bank account so that her SSI and that of her family can be deposited into the bank monthly. However, every bank that she has attempted to open a bank account has refused to allow her to do so. This is because she was very abusive to her last bank account with Bank of America where she was leaving her account overdrawn and attempting to send more money with her debit card even when she knew she had no money in the bank. This behavior had generated hundreds of dollars of overdraft fees prompting Bank of America to close her

account. Ever since then, she has been unable to open another bank account at any other bank. This forces her and the SLS worker to go to the post office box to retrieve her checks every first of the month so that she can pay her rent, utility bills and purchase food. . . . [Horizon] staff provides her with training and support to create a monthly budget, pay her rent into her landlord's account at Bank of America and pay the utility bills on time every month. However, she would refuse to pay her monthly bills off creating an accumulated bill that she becomes unable to pay. This happened to her account with Verizon and she eventually owed over \$1000 which she could not pay forcing her to switch to Charter Spectrum. She was given support purchasing money order to pay for her credit bills at the United States Postal Service. She continues to mismanage her money despite her instructor's advice and support to budget and stretch her money till end of the month. [Horizon] staff continues to provide [Claimant] with support to shop for groceries, other essentials and clothes for her family. . . .

#### HOUSEHOLD MANAGEMENT/MEAL PREPARATION

[Claimant's] adult children were given training to clean their home to help their mother who has been unable to do much of the home cleaning. She continues to be supported together with her children in gardening her yards and also in

maintaining her house. The grass in her yard is always overgrown prompting the City to give the landlord a citation and he in turn warning [Claimant] to keep the property maintained. Her son . . . is very destructive and needs to be supervised or he will wreak havoc on the property by throwing things on the roof, remove the window screens, dump the laundry soap in the trash, bleach on their clothes, take food from the refrigerator to throw in the trash and climb through the window into her room to take the things he wants. She still leaves the food uncovered in her refrigerator and was supported in instructing her children to mop the kitchen floor and clean the inside of her refrigerator.

She received support in preparing salmon fish using the oven, steamed vegetables for dinner and made jello for dessert since she complained that she cannot make it right. . . .

## SELF-ADVOCACY AND PARENTING TRAINING

[Claimant] was supported in advocating for herself and her family. She was supported in researching for an affordable housing and searching on Craig's List for a dryer. She was given support in keeping her phone annual review for her SSI and her children at Social Security Administration. She still needs intensive support in solving personal problem[s] and

making informed decisions by getting information from peers, family and professionals. [Horizon] supported her in knowing her rights and making informed decisions that will not be detrimental to her wellbeing. . . .

(Claimant Exh. 23.)

4. On October 27, 2017, the service agency notified Claimant of its determination to “[t]erminate Supported Living Services with Horizon SLS and provide you with options for Supported Living Services providers that can better meet your needs.” (SGPRC Exh. 1.). The service agency articulated the following reasons for its proposed action.

You have been receiving Supported Living Services from Horizon Supported Living since February 2, 2000[;] however, SLS reports indicate that you and your children are living in a home that has raw sewage which backs up into your yard. This problem has been occurring since April 2012. Reports from Horizon SLS state that the problem with the sewage has arisen from a tree that is on city property, with roots that are growing into the plumbing. The landlord and the city are in a dispute about what can be done about it. Furthermore, SLS reports indicate that your disabled adult children use too much toilet paper and throw foreign objects into the toilet. Your SLS provider from Horizon has stated in her reports that she been instructing your adult children, who are also individuals that receive regional center services, to bury the raw sewage in the yard.

You have lived in previous rental homes which have caught on fire. Both fires rendered the homes uninhabitable and you and your children had to move. One night in February 2014, you woke up at 3:00 AM because you smelled gas. The gas, which was accidentally left on, was so strong that you had to open the windows after shutting off the stove. From February 2014 until August 2015 your service coordinator requested you and your Horizon SLS provider to obtain smoke detectors and carbon monoxide detectors in order to keep you and your family safe. Nineteen months after your service coordinator made the initial request, you finally received a smoke detector.

In 2012, you stated that you wanted to move from your current residence in Azusa as there have been problems with rats, broken windows/doors, mold and raw sewage. Your Horizon SLS provider has stated that it is too difficult to find you and your family another home given your family's size and your budget of \$2000.00 per month, for rent. When your landlord has complained about the decline in the home which he attributes to you and your family's standard of living, your Horizon SLS provider threatens him with being a slum lord, and threatens to call the city on him. The interventions exercised by your Horizon SLS provider have not demonstrated an ability, by this program, to deliver

quality services or supports that can accomplish all or part of your IPP. Your IPP objective #2 is not being met.

Vendor reports list multiple medical appointments which are assisted with on a monthly basis; however, your most recent medical information on file is a prescription for low salt, chopped meat diet dated July 10, 2012 and a consultation for glasses dated 7/10/15. Vendor reports indicate that you are often dizzy and lose your balance. This condition has not yet been diagnosed, nor is it being treated. Our regional center nurse visited you in January 2017. Her findings were that you have no system for taking your medications. You are either not taking them or taking the incorrectly. Your IPP objective #1 is not being met.

Your legs, feet and ankles are swollen and painful to the point of you being unable to walk more than a few feet. This condition is being treated; however, you are not being assisted in following your physician's orders to elevate your feet and take your medication as prescribed. Your objective #3 is not being met.

In the 17 years that you have worked with Horizon Supported Living Services they have well documented their inability to work effectively with you in many areas, including, but not limited to securing appropriate affordable housing

and effectively securing and utilizing generic resources such as IHSS and ACCESS services. Your most recent ISP is also your initial ISP dated January 2000. Although an annual ISP has been requested numerous times, Horizon has failed to provide updated ISPs. Furthermore, Horizon Supported Living Services has not responded to your needs with a sense of urgency that must be expected from vendors providing support to individuals living in their own homes.

(SGPRC Exh. 1.)

5. On November 22, 2017, Claimant filed a request for a fair hearing stating, among other things, "I have not received SLS since October 2017. This is a violation of my right and is [a] source of severe stress to me." (SGPRC Exh. 2.) Thereafter, these proceedings ensued.

6. SGPRC maintained at the hearing that it was "not blaming the provider or the client," but that there was a "need to change the situation to something more intensive," without specifying what that "something more intensive" might be, and that Claimant "should start with a new vendor to have better living conditions."

7. Claimant's SLS worker and the owner of Horizon each testified at the hearing and their testimony was consistent with the substance of the SLS Progress Reports set forth above in Factual Finding 3. They elaborated that Claimant's physician regularly adjusts Claimant's medications—a high dosage of her water pill to reduce swelling in Claimant's feet, for example, followed by a lower dosage. Claimant does not discard old or expired medications, which are stored in the same place as her new or current medications. Claimant will not use a pill box system for managing her medications. Consequently, the SLS worker telephones Claimant daily to remind Claimant when to take her medications. According to Claimant's SLS worker, Claimant's

failure to take her medications is not an issue. "If she doesn't take her meds she will die." They detailed why the first day of each month, when Claimant receives her SSI checks, is "very critical." "You have to get your hands on the money otherwise things will go south." They itemized their many efforts to motivate Claimant to manage and care for her household while noting that they cannot force Claimant to take any specific action they recommend to her regarding her household. They explained the defective plumbing at Claimant's rented house, how water laced with feces flooded the house, and how Claimant's landlord has spent thousands of dollars to replace pipes and flooring only to have additional recurrences of flooding. Plumbers no longer want to service Claimant's home, and as a consequence Claimant had to get rid of feces by burying it in the yard. They also explained the difficulty finding different housing for Claimant and her developmentally disabled adult children, and their lobbying of Claimant's landlord to continue to lease to Claimant and her family.

8. A January 15, 2018 letter from Claimant's landlord addresses "problems with the house" as follows:

During the first couple years of renting to the [Claimant's] family, [Claimant's SLS worker] and I had several conflicts regarding problems with the house. Mainly on the house not being taking care of accordingly. However, with mutual understanding[s], [Claimant's SLS worker] and I have overcome those misunderstanding and has been working together to keep the home in comfortable condition for the [Claimant's family].

I have also completely upgraded the plumbing in the house because [Claimant's] children plug up the toilet with wads of

toilet paper, toys and other objects which in turn completely obstructs the toilet. Even after all the work done to the house, with each incident of flooding, [Claimant's SLS worker] has worked with me by calling a plumber to work on the problem immediately so that the flooding issue can be minimized.

The children have removed window screens, smoke detectors, carbon monoxide detectors, screen doors. Each time I had to replace them and bring the house up to code. One child turned off the house circuit breaker many times over the years and eventually caused an alarm with city officials. City of Azusa required me to install a lock on the breaker box to prevent that from happening again. To this date, the city inspectors have made a point to continue to come to inspect the house periodically to make sure the house is up to code.

To be honest, I have considered evicting the family several times over the years, but [Claimant's SLS worker] always convinced me otherwise on their behalf: It is very difficult for them to find a place to live due to their challenges. [Claimant's SLS worker] really tried to balance [Claimant's] best interests with my requirements by keeping things not getting out of hand. In my opinion, [Claimant's SLS worker] has worked very hard trying to take care of [Claimant's

family]. With the current situations of the house conditions, city requirements, and the conditions of the [Claimant's family], it would be really hard for me to learn to work with someone else again.

(Claimant Exh. 1.)

9. Claimant is resistant to changing her current SLS worker. She feels safe in the care of her current SLS worker, whom she trusts. Claimant's current SLS worker was the only person who visited her when she was hospitalized. Although exasperated with Claimant's choices and her failure or reluctance to follow instructions or guidance for managing her affairs and household, Claimant's current SLS worker's concern, warmth, and affection for Claimant was evident.

10. In a January 15, 2018 letter regarding Claimant's medical condition and treatment, her physician writes, among other things, "To the best of my knowledge, [Claimant's current SLS worker] has always been proactive and involved with [Claimant's] care." (Claimant Exh. 2.)

11. No evidence regarding SGPRC's cost of funding SLS for Claimant was offered at the hearing.

## LEGAL CONCLUSIONS

1. Under the Lanterman Act, developmentally disabled persons in California have a statutory right to treatment and habilitation services and supports at state expense. (Welf. & Inst. Code, §§ 4502, 4620, 4646-4648; *Association for Retarded Citizens—California v. Department of Developmental Services* (1985) 38 Cal.3d 384, 389.) 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 of life in the

community.” (Welf. & Inst. Code, § 4501.) Services and supports for persons with developmental disabilities includes “supported living arrangements.” (Welf. & Inst. Code, § 4512, subd. (b).)

2. Regional centers play a critical role in the coordination and delivery of services and supports for persons with developmental disabilities. (Welf. & Inst. Code, § 4620 et seq.) Regional centers are responsible for developing and implementing individual program plans for consumers, for taking into account individual consumer needs and preferences, and for ensuring service cost effectiveness. (Welf. & Inst. Code, §§ 4646, 4646.5, 4647, and 4648.)

3. Respect for a developmentally disabled person’s preferences is encoded throughout the Lanterman Act. Examples include: “A consumer of services and supports . . . shall have a leadership role in service design.” (Welf. & Inst. Code, § 4501); “Consumers of services and supports . . . should be empowered to make choices in all life areas.” (*Id.*); “In providing these services, consumers . . . should participate in decisions affecting their own lives, including . . . program planning and implementation.” (*Id.*); “The right of individuals with developmental disabilities to make choices in their own lives requires that all public or private agencies receiving state funds for the purpose of serving persons with developmental disabilities, including, but not limited to, regional centers, shall respect the choices made by consumers . . . .” (Welf. & Inst. Code, § 4502.1); “To make choices in areas including, but not limited to, his or her daily living routines, choice of companions, leisure and social activities, and program planning and implementation.” (Welf. & Inst. Code, § 4503 (i)); and “No service or support provided by any agency or individual shall be continued unless the consumer . . . is satisfied and the regional center and the consumer . . . agree that planned services and supports have been provided, and reasonable progress toward objectives have been made.” (Welf. & Inst. Code, § 4648 (a)(7).)

4. The Lanterman Act enumerates several factors for consideration when selecting a provider of consumer services and supports: (A) a provider's ability to deliver quality services and supports which can accomplish all or part of the consumer's individual program plan; (B) a provider's success in achieving the objectives set forth in the individual program plan; (C) a provider's licenses, accreditation and professional certifications; (D) whether services and supports of comparable quality can be obtained at less cost from another available provider; and (E) the consumer's choice of providers. (See Welf. & Inst. Code, § 4648 (a)(6).)

5. The Lanterman Act's implementing regulation specifically grants consumers receiving SLS a right to make decisions shaping the nature and quality of their lives in accordance with their preferences.

Consumers receiving SLS shall have the right to make decisions that shape the nature and quality of their lives in accordance with their preferences, and consistent with the goals of the consumer's IPP. These rights shall include, but are not limited to, the following:

- (a) Choosing where and with whom to live;
- (b) Controlling the character and appearance of the environment within their home;
- (c) Choosing and changing their SLS vendors and direct service staff;
- (d) Participating actively in their IPP process so that the SLS they receive is based on their needs and preferences;
- (e) Receiving services appropriated to their evolving needs and preferences for support without having to move from the home of their choice, for as long as

SLS remains the preferred objective, as determined in the consumer's IPP process; and

- (f) Informing the regional center about how satisfied they are with the services they are receiving, and to have this information taken into account in the regional center's periodic evaluation of the SLS vendor's service, pursuant to Section 58671(c).

(Cal. Code Regs., tit. 17, § 58620.)<sup>5</sup>

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<sup>5</sup> Consistent with the Lanterman Act and its implementing regulations, SGPRC's Purchase of Service Policy (DDS Approved June 2013) similarly promotes respect for the preferences of those developmentally disabled persons supported in their living arrangements.

The intent of supported living services is to provide opportunities for adults with developmental disabilities, regardless of the degree of disability, to live in homes that they own or lease with support available as often and for as long as it is needed. The purpose of providing services and supports shall be to assist that individual to exercise choice in his or her life while building vital and long-lasting relationships with other individuals. . . . [S]upported living services are offered for as long as and as often as needed, with the flexibility required to meet a person's changing needs in his or home over time. [¶ . . . ¶] Individuals shall have control over the environment within their own homes, where

6. Claimant is resistant to changing her current SLS worker provided to her through Horizon. Claimant trusts her current SLS worker. Warmth, care, and, affection are characteristic features of their relationship. Thus, SGPRC is required, under section 4648, subdivision (a) (6), to consider Claimant's preference for her current SLS worker along with the ability of her current SLS worker to deliver quality service to accomplish Claimant's IPP objectives; the success of the current SLS worker in achieving Claimant's IPP objectives; the licensing and accreditation of the SLS provider; and whether comparable services are obtainable from another SLS provider for less.

7. No evidence impugning the ability of Claimant's current SLS worker to deliver quality service to accomplish Claimant's IPP objectives was offered at the hearing. Specific action undertaken by Claimant's current SLS worker to instruct and to guide Claimant with the management of her health, personal care, finances, and household is documented throughout the SLS Progress Reports for the periods July 1 through December 31, 2016 and January 1 through June 30, 2017. (See Factual Finding 3.) For example, Claimant's SLS worker assisted Claimant with all areas of her medical needs and encouraged her to see all of her doctors regularly. Claimant's SLS worker accompanied Claimant to medical appointments and monitored Claimant's compliance with her medications. Claimant's physician reports that Claimant's SLS worker was proactive and involved with Claimant's care. (See Factual Findings 3 and 10.) Claimant's SLS worker assisted Claimant with all of her daily living needs. On the first day of each month, Claimant's SLS worker spent several hours ensuring that Claimant meets her financial obligations, including paying her rent, utility bills, and creditors. (See Factual Findings 3 and 7.) Claimant's SLS worker played an instrumental role in the

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and with whom they live. Services and supports shall be flexible and tailored to individual needs and preferences.

improvement of Claimant's relationship with her landlord, who reports the circumstance under which Claimant's SLS worker's advocacy averted an eviction of Claimant and her family from their home. (See Factual Finding 8.) Claimant's SLS worker assisted Claimant with her diet to achieve a healthier life style. Claimant's SLS worker encouraged Claimant to change the foods she consumes and instructed Claimant how to prepare nutritious meals. To the extent that the desired outcomes enumerated in Claimant's IPP were not achieved, the evidence establishes that Claimant exerted her discretion in ways that were contrary to her SLS worker's instructions and guidance for responsible management of her affairs and ultimately contrary to her long- and short-term interests. No evidence that either Claimant's current SLS worker or Horizon is lacking qualification was offered at the hearing. Nor was there any evidence establishing the availability of comparable services for less cost.

8. As the party seeking modification of an existing Lanterman Act service or support, SGPRC bears the burden of establishing by a preponderance of evidence that a change is warranted. (Evid. Code § 500.) SGPRC failed to meet its evidentiary burden.

9. By reason of Factual Findings 1 through 11 and Legal Conclusions 1 through 5, SGPRC shall, consistent with Claimant's expressed preference, provide Claimant with Support Living Services through Horizon Support Living Services to achieve the desirable goals set forth in Claimant's IPP.<sup>6</sup>

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(SGPRC Exh. 7.)

<sup>6</sup> There may come a time when it is administratively impossible or impracticable for the service agency to fulfill Claimant's preference. Based on the evidence presented at the hearing, now is not that time.

## ORDER

1. Claimant's appeal is granted.
2. San Gabriel Pomona Regional Center shall not terminate Claimant's existing Supported Living Services with Horizon Supportive Living Service and shall not provide Claimant with options for a different supported living service provider, unless and until it is established through the individualized program planning process that cause exists to do so.

Dated:

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JENNIFER M. RUSSELL  
Administrative Law Judge  
Office of Administrative Hearings

This is a final administrative decision. This decision binds both parties. Either party may appeal this decision to a court of competent jurisdiction within 90 days.