

BEFORE THE  
OFFICE OF ADMINISTRATIVE  
HEARINGS STATE OF CALIFORNIA

In the Matter of:

CLAIMANT,

v.

HARBOR REGIONAL CENTER,

Service Agency.

OAH No. 2017120241

DECISION

Carla L. Garrett, Administrative Law Judge (ALJ), Office of Administrative Hearings, State of California, heard this matter on January 23, 2018, in Torrance, California.

Claimant's father (Father), who serves as Claimant's conservator, represented Claimant. Claimant was not present at hearing. Elizabeth Stroh-Costin, Manager of Rights and Quality Assurance, represented the Harbor Regional Center (HRC or Service Agency).

Oral and documentary evidence was received. The record was closed on January 23, 2018, and the matter was submitted for decision.

ISSUE

Must the Service Agency reimburse Father for a lease buyout in the amount of \$1,190, a rental deposit in the amount of \$600, and for rent for the month of November 2017 in the amount of \$595?

## FINDINGS OF FACT

1. Claimant is a 21-year-old man, who resides within the Service Agency's catchment area, and is a consumer of the Service Agency. Specifically, Claimant has been diagnosed with Autism Spectrum Disorder and is eligible for services pursuant to the Lanterman Developmental Disabilities Services Act (Lanterman Act), California Welfare and Institutions Code, section 4500, et seq.<sup>1</sup>

2. Claimant is a very bright young man with some mental health and behavioral challenges. Claimant struggles with telling the truth, motivation, money management, and short-term memory problems, and often engages in self-sabotaging behavior. He tends to live in the moment without awareness of future consequences for his actions. HRC currently funds Respondent's bus pass, behavioral services, and Supported Living Services (SLS) through California Mentor. California Mentor's SLS program assists individuals in living independently and helps them learn how to make everyday decisions, such as what to cook for dinner and how to manage money.

### COLLEGE 2 CAREER PROGRAM

3. On October 9, 2015, pursuant to the terms of his Individualized Program Plan (IPP), Claimant began attending the College 2 Career (C2C) program held at Long Beach City College (LBCC). The C2C program is designed to support HRC clients in experiencing community college, student housing, and college life. It provides extra educational coaching support that includes assisting each student in creating and implementing an educational plan (e.g., enrolling in classes, attending classes, speaking to professors, etc.) based on the student's desired educational and employment goals,

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<sup>1</sup> All statutory references are to the welfare and Institutions Code.

providing academic supports in and out of the classroom, and assisting with participation in all aspects of student campus life.

4. The C2C program also has a residential component in which the students receive support and training in the development of skills needed to live independently in the community. The residential component allows students to live in affordable student housing close to campus, with independent living training and support, and support for experiencing typical college experiences. California Mentor provides SLS in connection with the residential component of the C2C program.

5. Both the educational and the living supports are funded by HRC. Each student is required to enroll in a certificate or degree program. Students who complete the program and receive their degree or certificate are also assisted in finding employment. The student is required to participate in all components the C2C program.

6. At hearing, Father explained that prior to Claimant's enrollment in the C2C program, he had shared with the program's staff some of Claimant's shortcomings. Specifically, Father shared that Claimant needed constant support, monitoring, and reminders to do the simplest things, like showering and taking his medication. Despite these deficiencies, Claimant was accepted into the program.

7. As a participant in the C2C program, Claimant lived in student housing comprised of a two-bedroom, one-bathroom, apartment, with a male roommate who was also a C2C program participant.

8. According to Father, California Mentor failed to monitor and supervise Claimant, particularly in ensuring Claimant took his medication designed to help Claimant focus. Without the medication, Claimant experienced great difficulty in attending to tasks, duties, and responsibilities, including attending his classes on a regular basis.

9. In September 2017, Claimant was asked to leave the C2C program due to his low attendance and lack of participation in the education component of the program. As such, Claimant received notice from the C2C program that he would be required to exit from student housing within 14 days.

10. Father and Claimant decided that Claimant would continue attending school at LBCC, even though he would no longer be participating in the C2C program, and requested California Mentor to assist Claimant in finding another apartment that would fit his budget and would be a reasonable distance from the school. At the close of the 14 days, California Mentor was successful in assisting Claimant locate an apartment, and advised Father of the same. Father contends that California Mentor assured him that the apartment building was safe, drug and alcohol-free, and that Claimant would end up sharing the apartment with three roommates who were participants of the C2C program. However, Roxanne Carter, Area Director of California Mentor, credibly testified at hearing that California Mentor could not have made any assurances that the apartment building would be alcohol, cigarette, or drug free, as the building was not a supervised group home or a licensed residence, but rather an independent living setting.

11. Father and Claimant contracted with the apartment building's property management agency and executed a lease. The terms of the lease included a monthly rental amount of \$595, and required a unit deposit of \$600. California Mentor was neither a party to nor a recipient of the lease agreement. Father paid the \$600 unit deposit, as well as \$595 for the first month's rent. Claimant moved into the new apartment on October 4, 2017, and California Mentor continued to provide Claimant with SLS services there.

12. Claimant's three male roommates moved in thereafter. One of them had a girlfriend and two of them were students from Germany, but were not participants of the C2C program. The roommate's girlfriend often spent the night in the roommate's room

where the two engaged in sexual activity. The roommates from Germany drank alcoholic beverages in the apartment.

13. On November 3, 2017, after the dissemination of a false allegation that Claimant had raped his roommate's girlfriend, and the threat of bodily harm perpetrated by the roommates on Claimant resulting therefrom, Father and Claimant decided that Claimant should move back to the family home. In order to vacate the unit legally, Father entered into a lease buyout agreement with the property management agency which required Father to pay \$1,190, and he lost his rental deposit of \$600.

14. Father felt misled by California Mentor about the safety of the apartment building given these issues, as well as his suspicion that residents used drugs and alcohol. Additionally, two of the three roommates that moved into the apartment with Claimant were not C2C participants and suffered from no developmental disability. Moreover, Father concluded that California Mentor failed to provide proper supervision at the new apartment. As such, Father contends he should not be responsible for the costs associated with California Mentor placing Claimant in what he described as a "frat house." Because of California Mentor's overall failures, Father believes that California Mentor should be responsible for his out of pocket costs. However, because HRC is the entity that contracted with California Mentor, Father asserts HRC should be responsible for paying the out-of-pocket costs associated with the consequences of California Mentor's negligence or incompetence.

## LEGAL CONCLUSIONS

### JURISDICTION AND BURDEN OF PROOF

1. The Lanterman Developmental Disabilities Services Act (Lanterman Act) governs this case. (§ 4500 et seq.) An administrative "fair hearing" to determine the rights and obligations of the parties is available under the Lanterman Act. (§§ 4700- 4716.)

Claimant requested a fair hearing to appeal the Service Agency's denial of his request to reimburse him for his out-of-pocket costs in connection with the lease buyout, the rental deposit, and rent for November 2017. (Exhibit 2.) Jurisdiction was therefore established.

2. The party asserting a claim generally has the burden of proof in administrative proceedings. (See, e.g., *Hughes v. Board of Architectural Examiners* (1998) 17 Cal.4th 763, 789, fn. 9.) In this case, Claimant bears the burden of proving, by a preponderance of the evidence, that he is entitled to the requested reimbursement.

#### APPLICABLE LAW

3. The services to be provided to any consumer of regional center services must be individually suited to meet the unique needs of the individual consumer in question, and within the bounds of the law, each consumer's particular needs must be met. (See, e.g., §§ 4500.5, subd. (d), 4501, 4502, 4502.1, 4512, subd. (b), 4640.7, subd. (a), 4646, subd. (a), 4646, subd. (b), 4648, subds. (a)(1) and (a)(2).) Otherwise, no IPP would have to be undertaken; the regional centers could simply provide the same services for all consumers. The Lanterman Act assigns a priority to maximizing the client's participation in the community. (§§ 4646.5, subd. (2); 4648, subd. (a)(1) & (a)(2).)

4. Section 4512, subdivision (b), of the Lanterman Act states in part:

"Services and supports for persons with developmental disabilities" 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 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's family, and shall include consideration of . . . the effectiveness of each option of meeting the goals stated in the individual program plan, and the cost-effectiveness of each option. Services and supports listed in the individual program plan may include, but are not limited to, diagnosis, evaluation, treatment, personal care, day care, . . . special living arrangements, physical, occupational, and speech therapy, . . . education, . . . recreation, . . . behavior training and behavior modification programs, . . . community integration services, . . . daily living skills training, . . .

5. Welfare and Institutions section 4689, subdivision (i), provides that "a regional center shall not make rent, mortgage, or lease payments on a supported living home, or for household expenses of consumers receiving supported living services," except under specific circumstances, including a writing by the regional center's executive director verifying that paying rent, mortgage, lease, or household expenses "is required to meet the specific care needs unique to the individual consumer as set forth in an addendum to the consumer's individual program plan."

#### ANALYSIS

6. Claimant failed to demonstrate by a preponderance of the evidence that the Service Agency is required reimburse him for his out-of-pocket expenses in connection with the early termination of his lease. Statutory authority, as set forth in Legal Conclusion 5, prohibits the Service Agency from paying any of Claimant's rent,

lease, or household expenses, as the record is silent as to whether the regional center's executive director has established in writing that paying Claimant's rent, mortgage, lease, or household expenses is required to meet the specific care needs unique to the individual consumer as set forth in an addendum to the consumer's individual program plan. While Father blames California Mentor for his out-of-pocket costs stemming from what he described as its lack of supervision and monitoring, as well as its overall incompetence in locating safe and suitable housing for Claimant, the evidence shows that Father, as Claimant's conservator, was the party who entered into the lease agreement and into the subsequent lease buyout agreement. California Mentor was not a party to either agreement, had no authority to negotiate either agreement, had no authority to enter into either agreement, and had no authority to terminate any agreement. Consequently, neither California Mentor, nor by extension, HRC, is responsible for paying the lease buyout amount of \$1,190, the rental deposit of \$600, or November 2017's rent in the amount of \$595. As such, Claimant's appeal shall be denied.

## ORDER

Claimant's appeal is denied.

Date:

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CARLA L. GARRETT

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.