

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

In the Matter of the Appeal of:

CLAIMANT

v.

FAR NORTHERN REGIONAL CENTER, Service Agency

OAH No. 2022070875

DECISION

Administrative Law Judge Coren D. Wong, Office of Administrative Hearings, State of California, heard this matter by videoconference on September 1, 2022, from Sacramento, California.

Claimant represented herself.

Margaret Long of Prentice Long, PC, represented Far Northern Regional Center (FNRC).

Evidence was received and the record was held open to allow FNRC to upload its exhibits to Case Center as separate files. FNRC uploaded its exhibits, the record was closed, and the matter was submitted for decision on September 1, 2022.

ISSUE

May claimant use Self-Determination Program (SDP) funds to replace her car's transmission when the need for a transmission is unrelated to her disability needs?

FACTUAL FINDINGS

Background

1. Claimant is a 42-year-old woman who qualifies for regional center services because she is "a person with a disability" who has seizures. She is slowly going blind. She lives in Chico, California with her boyfriend, who is also disabled.

2. Claimant is not currently employed because she tore her Achilles tendon five years ago. She has had three surgeries to repair her injury, and she anticipates needing a fourth. She volunteers as the president of People First of California, Inc., an advocacy group that teaches disabled people to advocate for their own needs and the needs of others. Claimant credited the advocacy group with giving her the confidence to appear at hearing and advocate for herself, which she described as "a huge accomplishment" and one she would not have been able to do a few years ago. She said, "I'm glad I'm getting heard."

Request for SDP Funds

3. Claimant does not drive. However, she contributed money to purchase a car that her boyfriend drives to work and uses to take her to "tons of medical appointments." The car's transmission failed "some time ago" and needs to be replaced. The estimated cost of replacement is "at least \$1,000." Neither claimant nor

her boyfriend has that much money, and she asked her service coordinator to use SDP funds. The service coordinator denied the request. FNRC issued a Notice of Proposed Action memorializing the denial on July 6, 2022 (NOPA).

4. Claimant filed a Fair Hearing Request (FHR) challenging the NOPA. She argued:

Certain individuals in the disabled community are being discriminated against because we don't need hand controls or ramps in our cars. I still need my car for my transportation to and from my many doctor appointments, to buy food, etc. Why should one section of disabled persons get help with their mode of transportation and not another. I need to have help keeping my mode of transportation working.

5. Claimant contacted the Department of Developmental Services in Sacramento and asked if she could use SDP funds to replace her car's transmission. She was told she could not. However, she was also told she could use the funds to install, repair, or maintain hand controls or a ramp if she needed either device in her car. She complained that the Department is discriminating against those who do not need such devices. She also complained that regional center consumers are using SDP funds to purchase Internet for their homes, personal cellular phones, and the Amazon prime subscription service even though they use those services for reasons unrelated to their disabilities. The Department representative "was not happy" to hear about the misuse of SDP funds claimant described.

6. At hearing, claimant explained that her boyfriend can no longer drive himself to work and must rely on colleagues for rides because the car is inoperable. Additionally, she has had to either postpone or cancel medical appointments due to a lack of transportation. She and her boyfriend have been unable to save money to replace the transmission "because rent's going up, food prices [are] going up, and everything else is going up." She believes she is "pretty much forced to live in poverty."

7. Claimant acknowledged that the Department and FNRC must follow the federal government's rules regarding the use of SDP funds. She also recognized that her appeal is unlikely to be successful. However, she expressed frustration because "the feds don't walk in the shoes of a person with a disability. They don't understand, pretty much."

FNRC's Explanation for Denying Claimant's Request

8. Claimant met with Larry Withers, FNRC's Associate Director of Client Services for its Chico office, in an attempt to informally resolve her FHR prior to hearing. Afterwards, Melissa Gruhler, FNRC's Executive Director, upheld the denial of claimant's request. Ms. Gruhler explained the following in an August 11, 2022 letter to claimant:

Based on your discussion with Mr. Withers, it is evident your vehicle is important to you and your independence. As you know, FNRC must comply with DDS regulations, which clearly prohibit the use of Self-Determination funds for routine car repair. Unlike the need for hand controls or ramps, transmission repairs can happen to anyone who owns a car regardless of their medical condition. In this

case, DDS considers car repairs something that is not unique to having a disability.

You explained you use your vehicle for transportation to medical appointments in Chico, Sacramento and the Bay Area. Please know that FNRC or Medi-Cal have resources to fund and provide medical transportation. Your Service Coordinator can help arrange this when needed. In addition, if you have trouble accessing transportation in Butte County, FNRC can provide you with a bus pass.

9. Mr. Withers testified at hearing. He explained that using SDP Funds to replace claimant's transmission would be an inappropriate use of funds as specified in the Department's guidance provided to regional centers on January 13, 2022. The Department's guidance explained that federal guidelines allow using SDP funds to pay for "adaptations or alterations to an automobile or van that is the [consumer's] primary means of transportation in order to accommodate the disability needs of the [consumer] (for example, lifts, ramps, hand brakes)." However, federal guidelines prohibit using funds to pay for "repairs or general maintenance to a vehicle that are unrelated to disability needs (for example, new tires, replacing the battery in the vehicle, oil changes)." FNRC analogized replacing claimant's transmission to "repairs or general maintenance that are unrelated to [her] disability needs" because her transmission could fail regardless of her disability.

Analysis

10. It is undisputed that claimant's car plays an important role in her maintaining her independence and ability to live in the community amongst her peers.

Access to reliable transportation is becoming more and more essential to a person's ability to obtain food, access entertainment, and access to the community in general, regardless of whether the person is disabled.

11. Appellant is entitled to regional center-funded transportation to allow her to live a more independent and productive life in the community amongst her peers. However, she is not entitled to any mode of transportation she chooses. Rather, FNRC is required to "find innovative and economical methods of achieving the objectives" of her IPP. (Welf. & Inst. Code, § 4651.) Ms. Gruhler stated in her August 11, 2022 letter that claimant's service coordinator can help her access resources for local and out-of-town travel to medical appointments.

12. Mr. Withers persuasively and credibly explained that federal guidelines prohibit the use of SDP funds to pay for car repairs and maintenance "that are unrelated to disability needs." His testimony was supported by documentary evidence. A functional transmission is essential to the operation of a car, regardless of whether the car is used by a disabled person or a nondisabled person. Claimant's transmission did not fail because of her disability. Therefore, replacing her transmission is "unrelated to [her] disability needs." The federal guidelines are neither arbitrary nor unreasonable, and they must be followed.

13. Claimant's claim of discrimination is based on a misunderstanding of the federal guidelines. Although SDP funds may be used to install, maintain, and repair hand controls and ramps in a car, the funds cannot be used to replace a transmission regardless of whether those devices are installed in the car. SDP funds may be used for the maintenance and repair of only those changes and alterations that are necessary "to accommodate the disability needs of the [consumer]." As previously discussed, a functional transmission is an essential component of all cars. The federal guidelines

focus on whether the specific item being repaired is necessary to accommodate a disability, not on whether the car, in general, is necessary as an accommodation. SDP funds may be used only for the former.

LEGAL CONCLUSIONS

Applicable Burden/Standard of Proof

1. Claimant has the burden of proving by a preponderance of the evidence that she may use SDP funds to replace her car's transmission. (*Lindsay v. San Diego Retirement Board* (1964) 231 Cal.App.2d 156, 161 [the party seeking government benefits has the burden of proving entitlement to such benefits]; Evid. Code, § 115 [the standard of proof is preponderance of the evidence, unless otherwise provided by law].) This evidentiary standard requires claimant to produce evidence of such weight that, when balanced against evidence to the contrary, is more persuasive. (*People ex rel. Brown v. Tri-Union Seafoods, LLC* (2009) 171 Cal.App.4th 1549, 1567.) In other words, she must prove it is more likely than not that her car needs a functional transmission to accommodate her disability. (*Lillian F. v. Superior Court* (1984) 160 Cal.App.3d 314, 320.)

Applicable Law

2. Under the Lanterman Act (Welf. & Inst. Code, § 4500 et seq.), the State of California accepts responsibility for persons with developmental disabilities and pays for the majority of the "treatment and habilitation services and supports" in order to enable such persons to live "in the least restrictive environment." (Welf. & Inst. Code, § 4502, subd. (b)(1).) "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 [citations], and to enable them to approximate a pattern of everyday living of nondisabled persons of the same age and to lead more independent and productive lives in the community [citations]." (*Association for Retarded Citizens v. Department of Developmental Services* (1985) 38 Cal.3d 384, 388.)

3. To determine how an individual consumer is to be served, regional centers are directed to conduct a planning process that results in an IPP designed to promote as normal a lifestyle as possible. (Welf. & Inst. Code, § 4646; *Association for Retarded Citizens v. Department of Developmental Services, supra*, 38 Cal.3d at p. 389.) The IPP is developed by an interdisciplinary team and must include participation by the consumer and/or her representative. Among other things, the IPP must set forth goals and objectives for the consumer, contain provisions for the acquisition of services (which must be based upon the consumer's developmental needs), contain a statement of time-limited objectives for improving the consumer's situation, and reflect the consumer's particular desires and preferences. (Welf. & Inst. Code, §§ 4512, subd. (b); 4646, subd. (a)(1), (2), & (4); 4646.5, subd. (a); and 4648, subd. (a)(6)(E).) The regional center must then "secure services and supports that meet the needs of the consumer" within the context of the IPP. (Welf. & Inst. Code, § 4648, subd. (a)(1).)

4. Regional centers are mandated to provide a wide range of services to facilitate implementation of a consumer's IPP, but must do so in a cost-effective manner. (Welf. & Inst. Code, §§ 4640.7, subd. (b), 4646, subd. (a).) They must "identify and pursue all possible sources of funding for consumers receiving regional center services." (Welf. & Inst. Code, § 4659, subd. (a).) Regional centers are not required to provide all the services a consumer may require, but are required to "find innovative and economical methods of achieving the objectives" of the IPP. (Welf. & Inst. Code, § 4651.) They are specifically prohibited from funding services that are available through

another publicly funded agency. (Welf. & Inst. Code, § 4659, subd. (c).) This prohibition is often referred to as “supplanting generic resources.”

Conclusion

5. Federal guidelines prohibit the use of SDP funds to pay for general car maintenance and repairs unrelated to a disability as explained in Factual Findings 10 through 13. Therefore, claimant cannot use SDP funds to replace her car’s transmission, and FNRC correctly denied her request to do so. Claimant is encouraged to discuss alternative means of transportation with her service coordinator, including those mentioned in Ms. Gruhler’s August 11, 2022 letter.

ORDER

Claimant’s appeal from Far Northern Regional Center’s July 6, 2022 Notice of Proposed Action denying her request to use Self-Determination Program funds to replace her car’s transmission is DENIED.

DATE: September 7, 2022

COREN D. WONG
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 of receipt of the decision. (Welf. & Inst. Code, § 4712.5, subd. (a).)