

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

In the Matter of Claimant

and

INLAND REGIONAL CENTER, Service Agency.

OAH No. 2023020441

DECISION

Administrative Law Judge Traci C. Belmore, Office of Administrative Hearings, State of California, heard these consolidated matters on June 27, 2023, by videoconference and telephone.

Claimant's mother represented claimant.

Jennifer Cummings, Fair Hearings Representative, Fair Hearings and Legal Affairs, represented Inland Regional Center (IRC).

This matter was consolidated for hearing with OAH Case No. 2023040424. The record was closed, and the matter was submitted for decision on June 27, 2023.

ISSUE

Must IRC fund funeral expenses for claimant?

SUMMARY

Claimant failed to prove by a preponderance of the evidence that IRC acted improperly when it denied the request to fund funeral expenses. Based upon the evidence of record, claimant's appeal is denied.

FACTUAL FINDINGS

Background

1. Claimant was a 14-year-old girl who was eligible for regional center services due to a diagnosis of Trisomy 18.¹ She required constant supervision during waking hours to prevent injury in all settings.

2. Claimant participated in the home and community-based services (HCBS) waiver program. She was Medi-Cal eligible and received services from the Early Periodic Screening, Diagnostic and Treatment program (EPSDT).

Notice of Action

3. On January 10, 2023, IRC issued a Notice of Action (NOA), which denied claimant's mother's request to reimburse her for claimant's funeral expenses as they are not a specialized regional center service or support.

4. Claimant's mother submitted an Appeals Request on February 6, 2023, requesting that IRC reimburse her for funeral expenses. Claimant's mother attached a

¹ Claimant passed away on December 30, 2022.

four-page document with attachments to her Appeals Request that made a number of statements regarding IRC's alleged failure to finalize an Individual Program Plan (IPP) or budget or provide services and supports prior to claimant's death.

The Self-Determination Program

5. Claimant participated in the Self-Determination Program (SDP), which is a program designed to allow families more flexibility and choice with regard to their services. The SDP is a voluntary alternative to the traditional way regional centers provide services and supports. Participants have control of a certain amount of money, known as an individual budget (budget), to purchase needed services and supports. The budget is the total amount of regional center funds that are available to the SDP participant each fiscal year and is based upon the amount of purchase of service funds used by the individual in the most recent fiscal year. This amount can be increased or decreased if the IPP team determines that the participant's needs, circumstances, or generic resources have changed.

6. The IPP team may also adjust the budget to support any needs or resources that were not addressed in the IPP. Examples include a change in living situation, services that were previously provided but are no longer needed, and services that were included in the IPP but were not used due to illness or lack of provider availability, thus incurring no costs.

Claimant's Final IPP and Request for Funeral Expenses

7. On November 8, 2022, an IPP meeting was held. Claimant asked that her budget be increased to include the costs of vehicle modifications, a gas back-up

generator, and a Starfish Pro Shower chair.² Claimant was informed that the approval of these items would be subject to an assessment.

8. On November 10, 2022, IRC sent a draft IPP to claimant. On November 17, 2022, claimant sent revisions to the IPP draft. Subsequent to discussion regarding the requested revisions between Consumer Services Coordinator (CSC) Jonathean Reese and claimant, a second IPP draft was sent to claimant on November 29, 2022. On December 2, 2022, claimant requested revisions to the second IPP draft.

9. On December 15, 2022, a third IPP draft was sent to claimant by CSC Reese.

10. On December 20, 2022, claimant requested further revisions to the IPP.

11. On December 21, 2022, CSC Reese sent a fourth IPP draft.

12. On December 26, 2022, claimant informed CSC Reese via email that she approved of the IPP draft and proposed budget. She requested that the budget be signed and certified by an IRC director, and that she be sent the signature page for the IPP. Of note, there was no mention of funding for end-of-life care in this IPP draft under the section titled "Desired Outcome" or the subheading "Specialists."

13. On January 3, 2023, claimant's mother informed CSC Reese that claimant had passed away on December 30, 2022, and requested that IRC provide funding for funeral and burial expenses.

² The request to increase claimant's budget for these items is the subject of OAH Case No. 2023020441.

14. On January 9, 2023, CSC Reese informed claimant's mother that IRC would not be able to fund funeral and burial expenses. He stated that he would be reaching out to an organization called Another Way to see if some assistance could be provided from that organization. CSC Reese also included links to several other organizations that could possibly be of assistance.

15. On January 11, 2023, CSC Reese informed claimant's mother that Another Way would require an invoice from the mortuary showing a balance of \$1,000 which would then be paid by Another Way.

16. On February 7, 2023, CSC Reese requested that the invoice for \$1,000 be provided by claimant's mother.

17. On February 21, 2023, an informal meeting was held with claimant's mother regarding her request for reimbursement of funeral expenses. At the meeting, claimant's mother explained that she had discovered that other regional centers had funded funeral expenses, and therefore, IRC should do so as well. IRC Fair Hearings and Legal Appeals Program Manager Jennifer Cummings explained that IRC is the representative payee for some consumers with Social Security benefits and, as a result, in those cases IRC would sometimes assist the consumer with purchasing burial plans or arranging for the release of funds for burial expenses. This was not the case with claimant.

18. On February 22, 2023, CSC Reese sent claimant's mother the final IPP draft.

19. On February 24, 2023, claimant's mother signed the final draft IPP. Claimant's mother attached a document making several requests as follows: the signature page she signed on November 16, 2022, be deleted; that she be provided a

copy of the certified budget worksheet that she had signed on February 23, 2023, and that she be provided a "fully-executed" copy of the 2022-2023 spending plan that she had signed on February 24, 2023. In this final draft under the section titled "Desired Outcomes" and the subheading "Specialist," was the first mention of a request for "IRC funding/financial assistance services to pay for the Consumer's end-of-life costs."

20. On February 24, 2023, claimant's mother signed a spending plan for a total of \$61,980.85 which included \$17,373.48 for "Funeral/Burial Costs."

21. On February 27, 2023, IRC issued a letter to complainant's mother summarizing the informal meeting. The letter further stated that Cummings had contacted 10 other regional centers to inquire about funding for funeral expenses. Of those contacted, only two had funded funeral expenses. One paid for the cremation of consumers who had passed and had no family or other resources. The other funded up to \$2,000 for consumers who had no surviving family. The letter explained that IRC does not have a Purchase of Service policy authorizing funding for funeral expenses, and that the request for such funding was outside the scope of the Lanterman Developmental Disabilities Act (Lanterman Act).

22. Alejandra Rivera testified on behalf of IRC. She is currently an Individuals with Disabilities Act and SDP Manager. Prior to that, she was a Participant Choice Coordinator. She has had extensive SDP training and now provides that training to others. Rivera stated that funeral expenses are not a service that can be approved for funding through the SDP. Rivera observed that pursuant to the "Participant-Directed Goods and Services Decision Tree," funeral services would fall under the branch of assisting a consumer with seeking funding from another source. IRC found Another Way to help claimant's mother with funding for the funeral expenses.

Claimant's Additional Evidence

23. Claimant's mother's testimony and argument at hearing is summarized as follows: Since end-of-life care was included in claimant's final IPP, IRC had agreed to fund the funeral expenses. IRC had agreed to pay for the funeral expenses by including them in the budget worksheet. IRC then reversed course without the benefit of a new IPP meeting or any input from claimant's mother. Claimant's mother found a service provider code "001 Funeral Services" that was listed by several other regional centers on their service provider lists. Claimant's mother was demonstrably frustrated with the process for reviewing and approving claimant's budget. She believes that including an item in the IPP requires that it be funded by IRC.

LEGAL CONCLUSIONS

1. The State of California accepts responsibility for persons with developmental disabilities under the Lanterman Act. The Lanterman Act is found at Welfare and Institutions Code³ section 4500 et seq. The purpose of the Lanterman Act is to rectify the problem of inadequate treatment and services for the developmentally disabled and to enable developmentally disabled individuals to lead independent and productive lives in the least restrictive setting possible. (§§ 4501, 4502; *Association for Retarded Citizens v. Department of Developmental Services* (1985) 38 Cal.3d 384.)

2. Regional centers are charged with the responsibility of carrying out the state's responsibilities to the developmentally disabled under the Act. (§ 4620, subd.

³ All statutory references are to the Welfare and Institutions Code unless otherwise indicated.

(a.) The Lanterman Act provides 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 life of the community.” (§ 4501.)

3. Section 4512, subdivision (b) defines services and supports as “specialized services and supports or special adaptations of generic services and supports directed toward the alleviation of a developmental disability.” It further states that the “determination of which services and supports are necessary for each consumer shall be made through the” IPP process.

4. Section 4646.4, subdivision (a), requires regional center to establish an internal process to ensure compliance with federal and state laws and regulations when purchasing services and supports. It also requires regional centers to consider generic resources and the family’s responsibilities for providing services and supports when considering purchasing services and supports for consumers.

5. Section 4648 requires regional centers to ensure that services and supports enable consumers to achieve the greatest self-sufficiency possible and to secure services and supports that meet the needs of the consumer, in conformity with the IPP. This section also requires fiscal responsibility from regional centers.

6. Section 4685.8, subdivision (a), establishes the SDP and requires it be available in every regional center catchment area and provide participants and their families with “an individual budget, increased flexibility and choice, and greater control over decisions, resources, and needed and desired services and supports to implement their IPP. . . .”

Discussion

7. Claimant's mother did not prove by a preponderance of the evidence that she is entitled to be reimbursed for funeral expenses. The funeral expenses are not a service or support as defined by Section 4512, subdivision (b).

ORDER

Claimant's appeal of IRC's proposed action denying funding for funeral expenses is denied.

DATE: July 10, 2023

TRACI C. BELMORE
Administrative Law Judge
Office of Administrative Hearings