

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

WILLIAM L.,

Claimant,

and

EASTERN LOS ANGELES

REGIONAL CENTER,

Service Agency.

OAH No. 2012020321

DECISION

Jennifer M. Russell, Administrative Law Judge with the Office of Administrative Hearings, heard this matter in Alhambra, California on August 21, 2012. Heather E. Sterling, Attorney at Law, represented Eastern Los Angeles Regional Center (ELARC or service agency). Claimant William L.'s mother represented him.¹

The matter was submitted for decision on August 21, 2012. The Administrative Law Judge makes the following Factual Findings, Legal Conclusions, and Order.

ISSUES

1. Should the service agency provide financial assistance for claimant's out-of-pocket medical expenses?

¹ Initials are used to preserve confidentiality.

2. Should the service agency provide financial assistance for claimant's funeral expenses?

FACTUAL FINDINGS

1. Claimant is deceased. At the time of his death, claimant was 18-years-old and he qualified for services and supports under the Lanterman Developmental Disabilities Services Act (Lanterman Act)² on basis of a diagnosis of autism.

2. By Notice of Proposed Action, dated September 7, 2011, ELARC notified claimant's mother that her request for "funding for funeral services has been denied effective September 7, 2011." The stated reason for the action is that "ELARC Chief of Consumer Services provided parent with generic resource for parent to pursue (Cardinal McIntyre Fund with the Los Angeles Archdiocese) funeral assistance and support. ELARC SC then researched this resource, contacted parent by phone on September 2, 2011 and informed parent that information regarding this resource would be left at the ELARC receptionist area for parent to pick up."

3. By Notice of Proposed Action, dated December 29, 2011, ELARC notified claimant's mother that her request for "funding of medication reimbursement will be denied as of 12/19/2011." The stated reason for the action is that "complete documents that verify medications were purchased by parent and that private insurance funding was denied have not been provided."

4. On January 29, 2011, claimant's mother filed a Fair Hearing Request appealing ELARC's denial of financial assistance set forth above, and asserting an additional request that "ELARC reimburse the family for transportation and other

² Welf. & Inst. Code, § 4500 et seq.

services agreed to that have not been reimbursed as of this filing.”³ Thereafter, these proceedings ensued.⁴

5. Claimant received his medical services from Kaiser Permanente (Kaiser). Medi-Cal covered his health care expenses not met by Kaiser Permanente.

6. Claimant’s last individual program plan (IPP), prepared June 21, 2011 and signed by claimant’s mother, service coordinator, and service agency’s supervisor, does not provide for financial assistance for claimant’s medical-related expenses.⁵ The June 21, 2011 IPP, however, contains language expressing the service agency’s willingness to review and consider requests for assistance:

Mother has requested that in the event that Medi-Cal does not fund Billy’s medication or ambulance service, ELARC would provide funding. Mother understands that all medial requests would be reviewed by the clinical team. Approval by both clinical and chief of consumers’ services would also be needed. Mother has requested that any clinical team reviews

³ At the hearing the parties submitted a signed Notification of Resolution, dated August 21, 2012, stating that they “have resolved the matter of mileage/transportation reimbursement” and that “no other issue in regards to mileage/transportation reimbursement remains.”

⁴ No objections regarding the timeliness of the Fair Hearing Request have been raised.

⁵ Claimant’s IPPs for the years 2005, 2006, 2008, 2009 and 2010 similarly do not provide for financial assistance for claimant’s medical-related expenses. (Exhibits 10, 11, 12, 13 and 14, respectively.)

conducted by ELARC would involve [claimant] Mother states that in order to have an accurate understanding of [claimant's] . . . needs it is necessary to interact with him rather than reviewing documentation solely. SC explained that this request would be stated to the clinical team and chief of consumer services, as it is not our current procedure for clinical review.(Exhibit 4.)

7. ELARC's process for considering requests for medical expense reimbursement when coverage is unavailable through a generic resource is first to determine the medical appropriateness of care and second to require documentary proof of denial of insurance coverage.

8. Claimant's mother has provided ELARC with ledgers showing that for the period January 1, 2006 through October 12, 2011, Costco Pharmacy #459 dispensed prescribed drugs and medication totaling \$1,106.44 and that on November 29, 2010, Wal-Mart Pharmacy, located on 7750 Carson Boulevard, Long Beach, filled orders for medication totaling \$112.84. At the request of claimant's mother, other similar documentation of the medication dispensed for claimant was faxed directly to ELARC's chief of consumer services, Felipe Hernandez, from the pharmacies located at Kaiser, Cedar Sinai Medical Center and UCLA.

9. No credible evidence established that claimant's mother provided ELARC with written notice of denial of coverage for medication-related expenses from claimant's health insurance providers—Kaiser and Medi-Cal.

10. Claimant's mother did not provide ELARC with documentation consisting of receipts, cancelled checks, or credit card charge slips in connection with out-of-pocket expenditures for claimant's prescribed drugs and medications that were not covered by Kaiser or Medi-Cal.

11. Family members and friends pooled their resources to pay for claimant's funeral expenses. Consequently, according to claimant's mother's testimony, "I owe a lot of people money." A total of \$11,822.12 was incurred for claimant's funeral and internment services.

12. Claimant's June 21, 2011 IPP has no provision for ELARC's funding of funeral expenses.

LEGAL CONCLUSIONS

1. The State of California accepts responsibility for persons with developmental disabilities under the Lanterman Act, which 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.) Regional centers play a critical role in the coordination and delivery of services and supports for persons with disabilities. (Welf. & Inst. Code, § 4620 et seq.) Regional centers are responsible for taking into account individual consumer needs and preferences, and for ensuring service cost effectiveness. (Welf. & Inst. Code, §§ 4646, 4646.5, 4647, and 4648.)

2. The services and supports to be funded for a consumer are determined through the individualized program planning process, which involves collaboration with the consumer and service agency representatives. Services and supports for persons with developmental disabilities are defined as "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 rehabilitation or rehabilitation of an individual with a developmental disability, or toward the achievement and maintenance of independent, productive, normal lives." (Welf. & Inst. Code, § 4512, subd. (b).)

3. Under the Lanterman Act, the services and supports necessary for an individual consumer must be expressly indicated in an IPP. Section 4512, subdivision (b), of the Lanterman Act specifically provides that "services and supports may include, but are not limited to, diagnosis, evaluation, treatment, personal care, day care, domiciliary care, special living arrangements, physical, occupational, and speech therapy, training, education, supported and sheltered employment, mental health services, recreation, counseling of the individual with a developmental disability and of his or her family, protective and other social and sociolegal services, information and referral services, follow-along services, adaptive equipment and supplies, advocacy assistance, including self-advocacy training, facilitation and peer advocates, assessment, assistance in locating a home child care, behavior training and behavior modification programs, camping, community integration services, community support, daily living skills training, emergency and crisis intervention, facilitating circles of support, habilitation, homemakers services, infant stimulation programs, paid roommates, paid neighbors, respite, short-term out-of-home care, social skills training, specialized medical and dental care, supported living arrangements, technical and financial assistance, travel training, training for parents of children with developmental disabilities, training for parents with developmental disabilities, vouchers, and transportation services necessary to ensure delivery of services to persons with developmental disabilities. *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.*" (Emphasis Added.)

4. As the party asserting a claim for services and supports under the Lanterman Act, claimant bears the burden of proving by a preponderance of evidence his entitlement to the services and supports. (Evid. Code, §§ 115 and 500.)

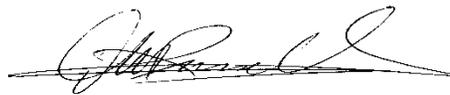
5. Cause does not exist for Eastern Los Angeles Regional Center to provide financial assistance for claimant's out-of-pocket medical expenses by reason of Factual Findings 5 through 10, inclusive, and Legal Conclusions 1 through 4, inclusive, in that it was not established by a preponderance of evidence that claimant's June 21, 2011 IPP provided for services and supports in the form of such financial assistance. In addition, notwithstanding the service agency's expressed readiness to consider such financial assistance, it was not established that claimant provided the service agency with necessary documentation including proof of coverage denial from his health insurers, Kaiser and Medi-Cal, and proof of payment such as receipts, cancelled checks or credit card slips.

6. Cause does not exist for Eastern Los Angeles Regional Center to provide financial assistance for claimant's funeral expenses by reason of Factual Finding 12 and Legal Conclusions 1 through 4, inclusive. Funeral services do not appear within the ambit of section 4512, subdivision (b) of the Lanterman Act and such services are not provided for in claimant's June 21, 2011 IPP.

ORDER

Claimant William L.'s appeal is denied.

DATED: August 29, 2012



JENNIFER M. RUSSELL

Administrative Law Judge

Office of Administrative Hearings

NOTICE

THIS IS THE FINAL ADMINISTRATIVE DECISION. THIS DECISION BINDS BOTH PARTIES.
EITHER PARTY MAY APPEAL THIS DECISION TO A COURT OF COMPETENT
JURISDICTION WITHIN 90 DAYS.