

BEFORE THE  
OFFICE OF ADMINISTRATIVE HEARINGS  
STATE OF CALIFORNIA

In the Matter of:

Lizbeth S.,

Claimant,

v.

Inland Regional Center,

Service

Agency.

OAH No. 2012030420

DECISION

Mary Agnes Matyszewski, Administrative Law Judge, Office of Administrative Hearings, State of California, heard this matter in San Bernardino, California, on May 16, 2012.

The Inland Regional Center (IRC) was represented by Leigh-Ann Pierce, Consumer Services Representative, Fair Hearings and Legal Appeals.

Lizbeth S. (claimant) was represented by her mother, Carmen S., who was assisted by an interpreter. Claimant and her father were also present at the hearing.

Oral and documentary evidence was received and the matter was submitted on May 16, 2012.

ISSUE

Should IRC reimburse claimant for dental treatment she had that was not pre-approved by IRC?

## FACTUAL FINDINGS

### JURISDICTIONAL MATTERS

1. On February 24, 2012, IRC notified claimant that it had denied her request for reimbursement of her dental treatment because IRC had not pre-approved that treatment.

2. On March 6, 2012, claimant filed a Fair Hearing Request appealing IRC's determination that it would not reimburse her.

### EVIDENCE PRESENTED AT HEARING

3. Claimant is a 27 year old female with a diagnosis of severe mental retardation associated with Down's syndrome, congenital heart disease, bradycardia, malocclusion, esotropia, atrioventricular heart defect and severe hearing loss. She does not attend a day program and resides at home. Claimant sees a cardiologist once a year who has given her medical clearance to receive dental treatment under general anesthesia. Claimant receives 241 hours per month of In Home Support Services provided by her mother and 20 hours per month of preferred provider respite provided by her sister. Claimant receives Medi-Cal and Medicare healthcare benefits and \$608 per month in SSI and \$166 per month in SSA benefits.

4. On October 31, 2011, claimant received dental treatment at Loma Linda University School of Dentistry (Loma Linda). She underwent a deep cleaning and a fluoride treatment, had x-rays taken and received an exam, all under general anesthesia. Claimant's parents indicated they noticed she was grinding her teeth a lot, that her gums were bleeding, and decided to take her for treatment. Before the treatment was rendered, Loma Linda informed claimant's parents that their HMO insurance plans were not accepted at Loma Linda. Claimant elected to proceed with the treatment and paid the \$2,281 fee with a credit card. On November 1, 2011, claimant requested that IRC reimburse her for the

treatment.

5. Claimant worked with Loma Linda's billing department so it could submit claims to claimant's two insurers, MD Health (medical) and Safeguard (dental). In February 2012 both insurers denied reimbursement.

6. Marissa Ramirez, IRC Consumer Services Coordinator, testified that at her September 2011 meeting with the family they advised her that they would be seeking dental treatment but never advised her of the appointment and never sought prior approval for the service. Ramirez testified that the dental services were not emergency services.

7. Renee Zambel, IRC Dental Hygienist, testified about the laws requiring prior authorization and exceptions thereto. Based on her review of all facts, claimant's treatment, deep cleaning under anesthesia, was not an emergency service. As claimant did not obtain prior authorization from IRC for the service, IRC was prohibited from funding it.

8. Claimant's parents testified that because claimant is non-communicative and had not had dental treatment in several years, they were concerned about her health. They were "bounced around" between several providers because none would treat their daughter as she needs general anesthesia for dental work. Finally Loma Linda agreed to treat her and they "jumped at" the opportunity. They described the long lapses in time while they were searching "desperately" for a dentist. Their testimony established that they never sought prior authorization from IRC, did not inform their CSC of the appointment or difficulties obtaining treatment and begged the question that if there was such a great lapse of time seeking treatment, why they did not also seek prior approval.

## LEGAL CONCLUSIONS

### BURDEN OF PROOF

1. In a proceeding to determine reimbursement for services, the burden of

proof is on the claimant to establish he or she is entitled to those services. The standard is a preponderance of the evidence. (Evid. Code, § 115.)

#### STATUTORY AUTHORITY

2. The Lanterman Act is set forth at Welfare and Institutions Code section 4500 et seq.

3. Welfare and Institutions Code section 4501 states:

“The State of California accepts a responsibility for persons with developmental disabilities and an obligation to them which it must discharge. Affecting hundreds of thousands of children and adults directly, and having an important impact on the lives of their families, neighbors and whole communities, developmental disabilities present social, medical, economic, and legal problems of extreme importance . . .

An array of services and supports should be established which is sufficiently complete to meet the needs and choices of each person with developmental disabilities, regardless of age or degree of disability, and at each stage of life and to support their integration into the mainstream life of the community. To the maximum extent feasible, services and supports should be available throughout the state to prevent the dislocation of persons with developmental disabilities from their home communities.”

4. Welfare and Institutions Code section 4659 provides that a regional center

shall identify and pursue all possible funding sources and that it “shall not purchase medical or dental services” unless the regional provided with documentation of a denial by an insurer and it determines that the consumer’s appeal of that denial does not have merit.

5. California Code of Regulations, title 17, section 50612 provides:

(a) A purchase of service authorization shall be obtained from the regional center for all services purchased out of center funds.

(b) The authorization shall be in advance of the provision of services except as follows:

(1) A retroactive authorization shall be allowed for emergency services if services are rendered by a vendor service provider...

#### EVALUATION

6. The Lanterman Act and the applicable regulations set forth the requirements a consumer must meet prior to receiving treatment. Claimant failed to obtain a prior authorization for the dental services and the evidence did not establish that she met any of the criteria necessary to meet an exception to that prior authorization requirement. Claimant’s parents’ belief that their daughter needed to be seen right away was insufficient to constitute an “emergency service” as that term is used in the statute. Regional Centers operate with public funds. They are accountable to taxpayers for how those funds are spent. The Lanterman Act establishes reasonable requirements so that funds are spent properly. The purpose of requiring claimants to obtain prior authorization is to prevent the very surprise request as happened here, a client who obtains thousands of dollars of services and then wants IRC, who had no opportunity to review or approve the service before it was rendered, to pay for that service. Claimant’s failure to follow that reasonable pre-authorization requirement resulted in her being unable to seek reimbursement afterwards. Claimant introduced no evidence demonstrating that she was entitled to have

IRC reimburse her for her dental services.

## ORDER

Claimant Lizbeth S's appeal from the Inland Regional Center's determination that she is not entitled to reimbursement of her dental services is denied. IRC shall not reimburse her for those dental services.

DATED: May 18, 2012

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MARY AGNES MATYSZEWSKI

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 ninety days.