

BEFORE THE  
OFFICE OF ADMINISTRATIVE HEARINGS  
STATE OF CALIFORNIA

In the Matter of:

MARIA M.,

Claimant,

vs.

EASTERN LOS ANGELES

REGIONAL CENTER,

Service Agency.

OAH No. 2012060465

DECISION

Administrative Law Judge Amy C. Yerkey, State of California, Office of Administrative Hearings, heard this matter in Alhambra, California, on August 23, 2012.

Matthew Pope, Attorney at Law, represented Maria M. (Claimant).<sup>1</sup> Claimant was present throughout the hearing.

Judy Castaneda, Fair Hearing Coordinator, represented Eastern Los Angeles Regional Center (ELARC or Service Agency or regional center.)

The matter was submitted on August 23, 2012.

ISSUE

Whether the Service Agency may transfer Claimant's case file management responsibility to the San Gabriel Pomona Regional Center.

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<sup>1</sup> Initials have been used to protect Claimant's privacy.

## EVIDENCE RELIED UPON

Documents: Service Agency's exhibits 1-9; Claimant's exhibits A-D.

Testimony: Cecilia Cortez; Maria M.

## FACTUAL FINDINGS

1. Claimant is a 48-year-old woman who is a consumer of ELARC based on her qualifying diagnoses of borderline intellectual functioning and cerebral palsy.

2. In January 2012, Claimant moved her residence a very short distance outside of ELARC's catchment area, located in San Gabriel Pomona Regional Center's (SGPRC) jurisdiction.

3. ELARC did not propose to transfer Claimant to SGPRC immediately because Claimant had suffered a shoulder injury at work and had to undergo major surgery. The situation is complicated by her cerebral palsy. Claimant's medical needs require services which ELARC helps to provide. Specifically, ELARC partially funds a homemaking service which assists Claimant with household chores, cooking and other tasks. Claimant is wheelchair bound and relies heavily on this service to help her with daily living.

4. ELARC and Claimant agreed to a temporary extension, followed by a transfer to SGPRC. Prior to the transfer, Claimant changed her mind and wanted to remain as an ELARC consumer. In a Notice of Proposed Action dated May 22, 2012, ELARC informed Claimant that it intended to transfer her case to SGPRC in July 2012. Claimant timely appealed and this hearing ensued.

5. Claimant explained that she wants to remain an ELARC consumer because she has strong ties to this regional center. Claimant has been an ELARC consumer for many years. She has served on the board of directors at ELARC and as an advocate,

among other activities. In addition, Claimant has serious medical needs which require care 24 hours per day, seven days per week. Claimant is extremely concerned that the transfer to SGPRC will disrupt the homemaking service at a time when it is crucial to her health. Although ELARC has confirmed that SGPRC can provide a similar service, the implementation of such is not guaranteed. Further, Claimant has stable workers through the service that ELARC is partially funding. Moreover, Claimant explained that she is planning to move from her current residence into her daughter's home, which is located in ELARC's catchment area within the next month or so. Claimant explained that she may eventually move to northern California.

6. Upon hearing this information, ELARC agreed to extend services to Claimant for an additional three months, or until November 30, 2012. If Claimant then resides within ELARC's catchment area, ELARC represented that it would continue to serve her. ELARC maintained that if Claimant stayed in her current residence, it planned to transfer her case file to SGPRC at the end of November 2012.

## LEGAL CONCLUSIONS

1. 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, the Service Agency bears the burden of proving, by a preponderance of the evidence, that its decision to transfer Claimant's case to another regional center is correct. (Evid. Code, § 115.)

2. The Lanterman Developmental Disabilities Services Act (Lanterman Act), incorporated under Welfare and Institutions Code section 4500 et seq., acknowledges the state's responsibility to provide services and supports for developmentally disabled individuals. It also recognizes that services and supports should be established to meet

the needs and choices of each person with developmental disabilities. (Welf. & Inst. Code, § 4501.)

3. The Lanterman Act states "It is the intent of the Legislature to ensure that the individual program plan and provision of services and supports by the regional center system is centered on the individual and the family of the individual with developmental disabilities and takes into account the needs and preferences of the individual and the family, where appropriate, as well as promoting community integration, independent, productive, and normal lives, and stable and healthy environments. It is the further intent of the Legislature to ensure that the provision of services to consumers and their families be effective in meeting the goals stated in the individual program plan, reflect the preferences and choices of the consumer, and reflect the cost-effective use of public resources." (Welf. & Inst. Code, § 4646, subd. (a).) In that regard, consumers of regional center services have the right to make choices in all areas of their lives, including their living arrangements and where and with whom they will live. (Welf. & Inst. Code, §§ 4501 and 4502, subd. (j).)

4. Regional centers are established as "fixed points of contact" to enable the state to carry out its duties to the developmentally disabled and to allow those persons access to the services and supports best suited to their individual needs throughout their lifetimes. (Welf. & Inst. Code, § 4620, subd. (a).) A regional center's catchment area is "the geographical area within which a regional center provides services specified in its contract with the [State Department of Developmental Services] as required by Welfare and Institutions Code Section 4640." (Cal. Code Regs., tit. 17, § 50501, subd. (18).)

5. "Whenever a consumer transfers from one regional center catchment area to another, the level and types of services and supports specified in the consumer's individual program plan shall be authorized and secured, if available, pending the

development of a new individual program plan for the consumer. . . . The department shall develop guidelines that describe the responsibilities of regional centers in ensuring a smooth transition of services and supports from one regional center to another.”

(Welf. & Inst. Code, § 4643.5, subd. (c).)

6. Section 4643.5, subdivision (c), supports the proposition that case file management responsibility should generally transfer when a regional center consumer moves to a different regional center’s catchment area. However, the Lanterman Act does not specifically address the situation when a consumer opposes such a transfer, which indicates there is room for discretion in such circumstances. In general, the geographic boundaries should be respected in order to effectuate the greater legislative scheme. In some instances, circumstances may justify that an exception be made.

7. Here, Claimant has established circumstances justifying an exception. Claimant has medical needs for which a service must remain in place, uninterrupted. ELARC is commended for its efforts to facilitate a smooth transition of Claimant’s case transfer. However, ELARC cannot guarantee that the same or similar service would be seamlessly continued at SGPRC. Because Claimant relies so heavily on the service that ELARC helps to fund, Claimant should continue as an ELARC consumer even if she remains in her current residence after November 2012. If, however, Claimant moves to northern California, then it will be appropriate for ELARC to consider a transfer at that time.

## ORDER

Claimant’s appeal is granted. Claimant shall remain a consumer of Eastern Los Angeles Regional Center even if she remains in her current residence after November 30, 2012.

Dated: August 30, 2012

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/s/

AMY C. YERKEY

Administrative Law Judge

Office of Administrative Hearings

## NOTICE

This is the final administrative decision in this matter and both parties are bound by this Decision. Either party may appeal this Decision to a court of competent jurisdiction within 90 days.