

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

CLAIMANT,

An Individual,

vs.

DEPARTMENT OF DEVELOPMENTAL
SERVICES

and

WESTSIDE REGIONAL CENTER,

Service Agencies.

OAH No. 2013100025

DECISION

Howard W. Cohen, Administrative Law Judge (ALJ), Office of Administrative Hearings (OAH), State of California, heard this matter on April 3 and June 11, 2014, in Culver City.

Lisa Basiri, Fair Hearing Coordinator, represented Westside Regional Center (Westside or WRC).

Trisha Pall, Staff Counsel, represented the California Department of Developmental Services (DDS or Department).

Claimant's mother and co-conservator represented claimant on April 3, 2014, and claimant's uncle, an attorney at law, represented claimant on June 11, 2014. Claimant was present for part of the hearing on April 3, 2014.¹ Claimant's father and co-conservator was present.

Oral and documentary evidence was received. The record was held open to allow briefing by the parties. Claimant filed a closing brief and a reply brief, which were

¹ Family titles are used to protect the privacy of claimant and her family.

marked as Exhibits C26 and C27, respectively. WRC filed a closing brief, which was marked as Exhibit W15. DDS filed a closing brief, which was marked as Exhibit D1.

The record was closed and the matter was submitted for decision on August 8, 2014.

ISSUES

1. Whether WRC must submit a request to DDS for authorization to fund an out-of-state residential placement for claimant at the Chapel Haven Schleifer Adult Independent Living (SAIL) Program in New Haven, Connecticut.

2. Whether DDS must fund claimant's out-of-state residential placement at the Chapel Haven SAIL Program in New Haven, Connecticut, retroactively and prospectively.

EVIDENCE RELIED UPON

Documents. Claimant's exhibits C1, C2, C3a-c, C6a, e, C7, C9, C11-C16, C19, C20, C22, C24-C27; WRC's exhibits W1 through W15; DDS's exhibit D1.

Testimony. Richard Wurtzel, Marylou Weise-Stusser, Terri Console, claimant, Debra Ray, Alicia Progodich, claimant's mother, Ron Swanigan, Tara Reisbaum.

FACTUAL FINDINGS

PARTIES AND JURISDICTION

1. Claimant is a 23-year-old woman who is a consumer of Westside based on her qualifying diagnosis of autism; she also has been diagnosed with mood disorder and difficulty with self-regulation. She began receiving regional center services under the Early Start Program in 1992.² In 2003, claimant was found eligible and began receiving

² The "Early Start Program" is a term commonly used to refer to the California Early Intervention Services Act (Gov. Code, § 95000 et seq.), which supplements the federal Individuals with Disabilities Education Act (20 U.S.C. § 1431 et seq.); the program

regional center services under the Lanterman Developmental Disabilities Services Act (Welf. & Inst. Code, § 4500 et seq.) (Lanterman Act). In 2009, claimant's parents became claimant's co-conservators.

2. By letter dated July 3, 2013, to Ron Swanigan, claimant's service coordinator at Westside, claimant's parents requested that claimant receive funding for an out-of-state residential placement. A meeting between claimant's parents, Swanigan, and other Westside personnel was held on July 13, 2013, to discuss the request.

3. In a letter to claimant's parents dated August 15, 2013, Swanigan wrote:

This letter serves to inform you that the Purchase of Services committee denied your request for out of state funding of your daughter's adult transition program.

If you do not agree with this decision, you have the right to appeal. Please complete the Fair Hearing Request form and return it within ten days. (Ex. 2.)

4. Claimant's parents filed a Fair Hearing Request on August 23, 2013.

5. Subsequently, by a Notice of Proposed Action (NOPA) dated September 17, 2013, Westside clarified that it had denied the request on the grounds that "[s]tate regulations require that all in state services be exhausted prior to requesting permission from DDS." (Ex. 2.) In a letter of the same date, Swanigan wrote to claimant's parents that the Purchase of Service Committee had denied the request because Welfare and Institutions Code section 4519 requires the DDS director to review and approve any out-of-state placement plan before funding such a placement. He wrote that, prior to requesting funding from DDS, the regional center must conduct a comprehensive

provides services to meet the needs of developmentally-delayed infants and toddlers under the age of three. (20 U.S.C. § 1432(4)(A); Cal. Code Regs., tit. 17, §§ 52000, subd. (b)(12), 52100 et seq.)

assessment, convene an Individual Program Plan (IPP) meeting to determine appropriate services and supports, and request assistance from DDS's specialized resource service to identify available placements in California. Swanigan did not write in his letter whether any of these steps had been taken.

6. Westside has not submitted a request to DDS for funding the requested out-of-state placement.

7. OAH set a fair hearing for March 6, 2014. On claimant's motion, the hearing was continued to April 3, 2014, in order to allow claimant, who would at that time be at her family home on break from her out-of-state placement, to appear and testify.

8. DDS moved for "nonappearance," arguing that because it had received no request from Westside to fund claimant's out-of-state placement, the matter was not ripe as to DDS and DDS should not be considered a necessary party. The motion was denied. Presiding Administrative Law Judge Susan Formaker ordered, on March 27, 2014, that DDS is a necessary party to this action and that it is a service agency for the purposes of the hearing, under Welfare and Institutions Code section 4519, subdivision (a).

EVENTS LEADING TO CLAIMANT'S OUT-OF-STATE PLACEMENT

9. Since early childhood, claimant has received services and supports from both Westside and the Los Angeles Unified School District (LAUSD). When claimant reached puberty, she developed erratic and violent behaviors. Her mood disorder worsened, she became physically violent, she was oppositional and defiant, and she experienced extreme mood swings. She began hitting her younger brother, slamming things into walls, spitting and screaming, and throwing heavy objects at her mother and brother. She eloped from the family car when it was stopped at a red light in the middle of a busy boulevard.

10. In 2004, claimant was assessed by and began to receive funding from the Los Angeles County Department of Mental Health (DMH). In 2006, another assessment was conducted and claimant was found to be severely emotionally disturbed.

11. When claimant was nearly 16 years old, and services provided by WRC and DMH had proven ineffective to address claimant's needs, DMH referred claimant for residential placement. The only placements for claimant identified in California were group homes with no educational component and facilities associated with the juvenile justice system. LAUSD and DMH determined that these were not appropriate settings for claimant, and she was placed out-of-state with funding from LAUSD and DMH.

12. Claimant was first placed in a school residential program in Utah, in 2006; the facility asked her to leave after six months because of her behavioral issues. She was then placed in a very restrictive environment in Florida, and then a less restrictive environment in Pennsylvania. The Pennsylvania facility closed after claimant was there for over two years. Claimant was next placed in a program in Hanover, Massachusetts. After a year, she was admitted to Chapel Haven's Residential Education at Chapel Haven (REACH) Program, a two-year program for 18 to 21 year olds preparing for greater independence. In July 2013, claimant graduated from the REACH program and entered Chapel Haven's SAIL Program.

CLAIMANT'S PARENTS' REQUEST FOR FUNDING, AND WESTSIDE'S RESPONSE

13. Claimant's family has been paying the expenses of claimant's placement since she reached age 22, when funding from LAUSD and DMH ceased. At that time, they requested that Westside authorize funding for the placement. In their funding request letter dated July 3, 2013, to Swanigan, claimant's parents described the Chapel Haven SAIL Program, which, they wrote,

is designed for individuals who require independent living support with added structure . . . as needed Those in the SAIL program live in campus-owned apartments with roommates and may choose to access the Community Life Program, recreation program, vocational services, volunteer activities, adult education classes, and speech therapy, which emphasizes appropriate social skills via social

communication. There is an assigned staff person who coordinates care, provides case management and oversees the person's daily schedule.

(Ex. C9.) The program aims to maximize consumers' independence in a safe environment. Claimant's parents wrote that claimant "continues to make incremental but steady progress. . . . She is happy and thriving in ways that we have never seen before; she does not want to move again" (*Ibid.*) Staff oversight and the "continuity of this reinforcement across all settings has shown itself to be absolutely critical to her ongoing success." (*Ibid.*; emphasis omitted.)

14. To instruct regional centers about how to address requests for out-of-state placement funding, in August 2012 DDS issued to all regional center directors a letter detailing "Instructions for Requesting Department Authorization for the Purchase of Out-Of-State Services." (Ex. C12.) The letter discusses Welfare and Institutions Code section 4519 (as amended on June 17, 2012); it sets forth a detailed list of information and documentation that a regional center must submit to DDS with any request to fund out-of-state services, and requires regional centers to "immediately begin exploring all in-state service options" and to develop a transition plan to return the consumer to California. (*Ibid.*)

15. Westside's Director of Community Services, Mary Lou Weise-Stusser, developed a protocol for Westside personnel to follow before requesting funding from DDS for out-of-state placements and a protocol for service coordinators to follow in order to submit a request for an out-of-state placement. The first protocol requires a comprehensive assessment, an IPP meeting, a placement search to identify potential placements in Westside's catchment area and, if none can be identified, a statewide search for potential placements, discussion with the service coordinator and the consumer's family of local placement options, completion and submission to DDS of a Statewide Specialized Resource Services (SSRS) form if no local placements are available or deemed appropriate, contact by the service coordinator with any potential providers identified through the SSRS process, and reporting to DDS as to whether any of the

identified options meets the consumer's needs. (Ex. C9.) The second protocol identifies documentation for the service coordinator to complete and submit to Weise-Stusser. That documentation includes a description of the consumer's needs, a copy of an updated IPP reflecting the planning team's out-of-state service recommendation, a description of the out-of-state service provider, an explanation of how Westside determined that the out-of-state provider is appropriate for the consumer, a plan for quarterly monitoring of the consumer, and the proposed dates of the placement. (*Ibid.*)³

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16. As of the date Swanigan received the funding request from claimant's family, he had not been given a copy of and was ignorant of the existence of Weise-Stusser's protocols and of DDS's instructions for responding to out-of-state placement funding requests.⁴ Swanigan has been claimant's service coordinator for over 10 years; he worked most actively with her and her family while she was a minor residing in California. He remained claimant's service coordinator after claimant reached her majority; with the exception of claimant, he works exclusively with minor consumers of Westside. Until claimant's family requested funding for the out-of-state placement, Swanigan had never worked with an adult client or with a consumer who lives outside the family home and had never received a request for funding for an out-of-state placement. Nevertheless, although Swanigan had not received training sufficient to prepare him to address requests for funding out-of-state placements for adult

³ No evidence was submitted to show that either has the force of law or has been adopted by DDS as a regulation under the Administrative Procedure Act. It is not necessary here to decide whether Westside's protocols or DDS's instructions to regional centers are consistent with the Lanterman Act's requirements.

⁴ Swanigan first saw Weise-Stusser's protocols on June 9, 2014, two days before the second day of this hearing.

consumers, after some internal discussion Westside decided to leave claimant's case with Swanigan.

17. There followed a good deal of confusion, miscommunication, and unnecessary delay in processing claimant's funding request.

18. In response to claimant's parents' letter, Swanigan informed them that their funding request would likely be denied because Westside does not typically approve funding requests for out-of-state placement. But, desiring to give claimant's parents an opportunity to advocate for their daughter's placement, Swanigan arranged a meeting between claimant's parents and the Purchase of Services Committee, consisting at that time of Debra Ray, then the Director of Client Services at Westside, and Alex Hernandez, Swanigan's supervisor.

19. The meeting took place on July 23, 2013. Claimant's parents were informed about the process for handling out-of-state placement funding requests, including the need for a statewide search and a comprehensive assessment. There is conflicting testimony, however, as to whether Westside unambiguously denied the funding request at the meeting. Swanigan testified that Ray did deny the request at the meeting; that is why Swanigan wrote the August 15 letter formally denying the request. Ray testified that Swanigan's August 15 letter was deficient and could not have been approved by a supervisor because it did not detail what Westside's decision was, it did not explain that until Westside followed its protocol a decision could not be made, and it did not indicate that Westside would proceed to follow its protocol. Swanigan, due to Westside's failure to train him on the subject of out-of-state placements, did not realize there was a list of subsequent actions to take to further process the funding request. After claimant's parents requested a fair hearing, Lisa Basiri, Westside's Fair Hearing Coordinator, instructed Swanigan to send them another letter, dated September 17, 2013, which accompanied Westside's NOPA. (See Factual Finding 5.) Basiri provided Swanigan with statutory citations pertaining to out-of-state placements to include in that letter.

20. At the July 13 meeting, Westside made some effort to convey to claimant's parents that it was required to take steps to process the funding request and that only

DDS could approve funding for out-of-state placements. There was ambiguity, however, as to whether Westside's response was a denial of the request; that ambiguity was resolved when Swanigan explicitly denied the request in his August 15 letter and invited claimant's parents to request a fair hearing to contest the decision. Neither in that letter, nor in the September NOPA and letter, did Westside clearly explain why the request was being denied. Nor did Westside adequately convey that it would immediately comply with the Lanterman Act, process the funding request, and determine whether to forward the request to DDS, at which time, if they disagreed with Westside's decision, claimant's parents could appropriately request a fair hearing. Instead, the gist of Westside's communications was that Westside could not agree to fund the placement at the time of the request and that claimant's parents could immediately challenge Westside's position by requesting a fair hearing.⁵

21. Although under ordinary circumstances it might have been precipitate to request a hearing without allowing Westside to process the funding request, in this case, based on the ambiguous information conveyed by Westside and its express denial and invitation to claimant's parents to file a fair hearing request, the request was timely.

ADDITIONAL ACTIONS TAKEN BY WRC

22. After sending his August 15 letter, Swanigan was instructed to and did conduct a comprehensive assessment and an IPP meeting on September 3, 2013. Both

⁵ There may be appropriate bases for requesting a fair hearing at various stages of the funding-request process. For instance, if a regional center does not process the request expeditiously in compliance with the Lanterman Act or its own protocols, there might be a basis for requesting a hearing. There might also be such a basis if, after conducting a search, the regional center and the consumer disagree as to whether there is an appropriate placement in California, or if the regional center agrees that there is no appropriate local placement but, after forwarding the funding request to DDS for approval, DDS then delays or denies the request.

the assessment and the IPP reflected claimant's continued placement at Chapel Haven and her desire to remain there. Swanigan also obtained a Supported Living Assessment dated September 19, 2013, from Get a Life Enterprises.⁶

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23. Swanigan sent out a Regional Center Statewide Placement Request and a Request for Community Placement Plan Residential Placement on January 16, 2014. No local or California placements were identified through this process. Swanigan therefore, following Westside protocol, prepared and submitted an SSRS Consumer Information form. DDS did not inform Westside that any California placements were identified through this process. Claimant's IPP was revised in April 2014, to update information on claimant's condition and to add that "[r]esults of statewide search will be addressed." (Ex. 16b at p. 9.)

24. Since claimant's parents filed their fair hearing request, Westside has not finished complying with its own protocols for processing out-of-state placement funding requests. Swanigan testified that, since the matter had gone to the appeal process, he took no further action on claimant's request for funding. He was, however, told in January 2014 that there was an appropriate local group home placement for claimant, Wortham Family Home. He informed claimant's family of this two months later, in March. Other than that one placement, Swanigan has not informed claimant's parents of any other possible placements in California.

25. Westside asserted at hearing that there are appropriate placements for claimant currently available within Westside's catchment area. That assertion was not supported by evidence. Swanigan testified that there are no currently available

⁶ Westside has been exploring whether supported living services in California would be appropriate for claimant. Nothing in this Decision is intended to prevent Westside from continuing its year-long and as yet unsuccessful investigation of alternative placement or services options. But the fact that Westside's investigation is ongoing cannot justify further delay in submitting a funding request to DDS.

placements in California, though some unidentified placements “are being developed.” He testified that Westside should have submitted a funding request to DDS.

WESTSIDE HAS MADE NO REQUEST TO DDS TO FUND CLAIMANT’S PLACEMENT

26. More than one year has passed since claimant’s parents’ July 2013 request for funding. Westside has not submitted to DDS a request to fund claimant’s out-of-state placement. Instead, it has continued to try to identify appropriate alternative local placements and services for claimant.

27. At the hearing, no evidence was introduced to demonstrate that there is currently an appropriate placement for claimant available in California, or that at any time relevant to this matter such a placement has been identified through a placement search or the SSRS. Westside never presented any such placement to claimant’s family. The only local placement Westside has identified is a group home, which Westside admits is not an appropriate setting for claimant, and the evidence did not in any case support the conclusion that there is currently a space for claimant there. Swanigan testified that he has not visited any potential local placements or explored whether any exist that have openings for claimant and provide services and supports that meet her needs. Claimant’s mother, on the other hand, followed up on the group home referral information provided to her by Westside, with no success.⁷

28. Claimant argues that OAH, in ordering that DDS is a necessary party (see Factual Finding 8), has already determined that the ALJ may order DDS to fund

⁷ Claimant argues that Westside failed to demonstrate that there is “a program that is equal or comparable to the Chapel Haven program” in California. (Ex. C27at p. 3.) Westside is not required to offer such a demonstration; Westside must, however, demonstrate that there is a program in California, with space for claimant, suitable for addressing claimant’s needs as determined in the IPP process after a comprehensive assessment. Westside did not provide evidence sufficient to support a conclusion that any California service or placement is currently appropriate and available.

claimant's out-of-state placement. But claimant has not identified any basis upon which the ALJ may order DDS to fund claimant's out-of-state placement prior to a request for such funding being placed before DDS for its consideration in accordance with the governing statutes and regulations. In compliance with the March 2014 order, DDS appeared at the hearing, offering corroborated evidence that it has received no request from Westside to fund claimant's placement at Chapel Haven. DDS, in its closing brief, moved for dismissal for lack of standing and ripeness. The motion is denied, and the previous order finding DDS a necessary party and service agency for purposes of this hearing and the resulting order is reaffirmed, based on the language of Welfare and Institutions Code section 4519, subdivision (a).

29. Based on the evidentiary record as a whole, the ALJ may, and hereby does, order Westside to submit claimant's funding request to DDS forthwith, in proper form and with all the supporting documentation required by law and by DDS's August 27, 2012, letter to regional centers. Further, OAH orders DDS to consider that request promptly upon receipt and, without any unwarranted delay, make a determination as to whether to fund claimant's placement.

CLAIMANT'S REQUEST FOR RETROACTIVE FUNDING

30. Claimant's parents seek reimbursement for expenses they have incurred for claimant's placement at Chapel Haven since August 15, 2013, the date Westside denied their request for funding. (Ex. C27 at p. 6.) The request is not ripe. Westside has not yet requested funding from DDS, either retroactive or prospective, for claimant's placement, and DDS has therefore had no opportunity to make a determination as to whether it will fund the placement.

LEGAL CONCLUSIONS

1. Cause exists to grant claimant's appeal as to Issue Number 1, as set forth in Factual Findings 1 through 30 and Legal Conclusions 3 through 11.
2. Cause does not exist to grant claimant's appeal as to Issue Number 2, as set forth in Factual Findings 1 through 30 and Legal Conclusions 3 through 11.

3. The Lanterman Act governs this case. (Welf. & Inst. Code, § 4500 et seq.⁸) An administrative “fair hearing” to determine the rights and obligations of the parties is available under the Lanterman Act. (§§ 4700-4716.) Claimant requested a fair hearing to appeal a denial of funding for an out-of-state placement. Jurisdiction was established. (Factual Findings 1-8.)

4. The standard of proof in this case is the preponderance of the evidence, because no law or statute requires otherwise. (Evid. Code, § 115.) Claimant, who is seeking government benefits or services, has the burden of proof in this case. (See, e.g., *Lindsay v. San Diego Retirement Bd.* (1964) 231 Cal.App.2d 156, 161 (disability benefits); Evid. Code, § 500; compare *Hughes v. Board of Architectural Examiners* (1998) 17 Cal.4th 763, 789 fn. 9.)

5. The Lanterman Act acknowledges the state’s responsibility to provide services and supports for developmentally disabled individuals and their families, and to “ensure that no gaps occur in communication or provision of services and supports.” (§ 4501.) DDS, the state agency charged with implementing the Lanterman Act, is authorized to contract with regional centers to provide developmentally disabled individuals with access to the services and supports best suited to them throughout their lifetime. (§ 4520.)

6. Regional centers are responsible for conducting a planning process that results in an IPP. The IPP is developed by an interdisciplinary team and must include participation by the consumer or his or her representative. Among other things, the IPP must set forth goals and objectives for the consumer, contain provisions for the acquisition of services based on the client’s developmental needs and the effectiveness of the means selected to assist the consumer in achieving the agreed-upon goals, contain a statement of time-limited objectives for improving the client’s situation, and reflect the client’s particular desires and preferences. (§§ 4646, subd. (a)(1), (2), and (4),

⁸ All further statutory references are to the Welfare and Institutions Code, unless otherwise stated.

4646.5, subd. (a), 4512, subd. (b), 4648, subd. (a)(6)(E.) "The right of individuals with developmental disabilities to make choices in their own lives requires that all public or private agencies receiving state funds for the purpose of serving persons with developmental disabilities . . . shall respect the choices made by consumers or, where appropriate, their parents . . ." (§ 4502.1.)

7. Although regional centers are mandated to provide a wide range of services to implement the IPP, they must do so in a cost-effective manner. (§§ 4640.7, subd. (b), 4646, subd. (a).) A regional center is not required to provide all services that a client may require but is required to "find innovative and economical methods of achieving the objectives" of the IPP. (§ 4651.) Regional centers are specifically directed not to fund duplicate services that are available through another publicly funded agency or "generic resource." Regional centers are required to "identify and pursue all possible sources of funding. . . ." (§ 4659, subd. (a).) But if a service specified in a client's IPP is not provided by a generic agency, the regional center must fund the service in order to meet the goals set forth in the IPP. (§ 4648, subd. (a)(1).)

8. Funding for out of state placements is governed by section 4519 and related statutes. Section 4519 provides, in pertinent part:

(a) The department shall not expend funds, and a regional center shall not expend funds allocated to it by the department, for the purchase of any service outside the state unless the Director of Developmental Services or the director's designee has received, reviewed, and approved a plan for out-of-state service in the client's individual program plan developed pursuant to Sections 4646 to 4648, inclusive. Prior to submitting a request for out-of-state services, the regional center shall conduct a comprehensive assessment and convene an individual program plan meeting to determine the services and supports needed for the consumer to receive services in California and shall request assistance from the department's statewide specialized resource service in identifying options to serve the consumer in California. The request shall include details regarding all options considered and an explanation of why these options cannot meet the consumer's needs. The department shall

authorize for no more than six months the purchase of out-of-state services when the director determines the proposed service or an appropriate alternative, as determined by the director, is not available from resources and facilities within the state. Any extension beyond six months shall be based on a new and complete comprehensive assessment of the consumer's needs, review of available options, and determination that the consumer's needs cannot be met in California. An extension shall not exceed six months. For the purposes of this section, the department shall be considered a service agency under Chapter 7 (commencing with Section 4700).

[¶] . . . [¶]

- (c) When a regional center places a client out of state pursuant to subdivision (a), it shall prepare a report for inclusion in the client's individual program plan. This report shall summarize the regional centers efforts to locate, develop, or adapt an appropriate program for the client within the state. This report shall be reviewed and updated every three months and a copy sent to the director. Each comprehensive assessment and report shall include identification of the services and supports needed and the timeline for identifying or developing those services needed to transition the consumer back to California.

9. Westside has not requested funding from DDS for claimant's placement and has not provided DDS with the statutorily-mandated information necessary to make a decision as to whether to fund claimant's placement at Chapel Haven. Section 4519 contemplates that a regional center will provide DDS with an IPP reflecting the IPP team's determination of services and supports needed, and with information concerning an SSRS search to attempt to identify options within California and information concerning any alternative options considered and the reason they will not meet the consumer's needs.

10. Westside's lengthy and, at present, continuing delay in submitting a funding request to DDS for claimant's placement after no appropriate available placement in California was identified is at odds with the Lanterman Act's remedial purposes. (See *Association for Retarded Citizens v. Department of Development Services*

(1985) 38 Cal.3d 384, 391, 392; see also *Lande v. Jurisich* (1943) 59 Cal.App.2d 613, 617.) The Lanterman Act "defines a basic right and a corresponding basic obligation: the right which it grants to the developmentally disabled person is to be provided with services that enable him to live a more independent and productive life in the community; the obligation which it imposes on the state is to provide such services." (*Association for Retarded Citizens v. Department of Development Services, supra*, 38 Cal.3d at p. 391.) The Legislative protections embodied in a remedial statute such as the Lanterman Act cannot be frustrated or circumnavigated by unwarranted delay. (*California State Restaurant Association v. Whitlow* (1981) 58 Cal.App.3d 340, 347; see also *Montessori Schoolhouse of Orange County, Inc. v. Department of Social Services* (1981) 120 Cal.App.3d 248, 256.) The wisdom in requiring a broad construction is apparent here where, based on the evidence at hearing, an out-of-state placement for claimant is the only appropriate and available option identified at this time.

11. In view of its failure after a statewide search and after engaging in the SSRS process to identify appropriate available services or placements in California, WRC must immediately submit to DDS a request for funding, with all documentation required under the Lanterman Act and the DDS memo governing funding requests. DDS must then act expeditiously to determine the propriety of funding claimant's placement.

ORDER

The appeal by claimant is granted in part. Westside shall promptly submit to DDS a request, supported by all statutorily-mandated documentation, to fund claimant's out-of-state placement at Chapel Haven. Upon receiving the request from Westside, DDS shall without any unwarranted delay make a determination, in compliance with the Lanterman Act, as to whether to fund claimant's placement.

DATED: August 22, 2014



HOWARD W. COHEN
Administrative Law Judge
Office of Administrative Hearings

NOTICE

This is the final administrative decision; all parties are bound by this decision. Any party may appeal this decision to a court of competent jurisdiction within 90 days.