

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

STEPHEN P.,

Claimant,

vs.

SOUTH CENTRAL LOS ANGELES REGIONAL
CENTER,

Service Agency.

OAH No. 2013110444

DECISION

Laurie R. Pearlman, Administrative Law Judge, Office of Administrative Hearings, State of California, heard this matter on December 17, 2013, in Los Angeles.

Stephen P. (Claimant) was represented by his mother, Roni P. (Claimant's Mother or Mother).¹

Johanna Arias-Bhatia, Fair Hearing Coordinator, represented South Central Los Angeles Regional Center (SCLARC or Service Agency).

Oral and documentary evidence was received and the matter was submitted for decision on December 17, 2013.

¹ Initials and family titles are used to protect the privacy of Claimant and his mother.

ISSUE

Should Service Agency be ordered to fund Independent Living Services (ILS) through Claimant's chosen vendor, My Life Foundation, which is not associated with SCLARC?

FACTUAL FINDINGS

1. Claimant is a 20-year-old man who lives at home with his adoptive mother, who is a single parent. Claimant is diagnosed with Autism, Moderate Mental Retardation, and Cognitive Disorder NOS and requires constant supervision. He displays destructive and aggressive social behavior on a daily basis. Claimant has a 10 DB hearing loss in the high range. He is predominantly non-verbal and communicates by using signs, pointing and gesturing. He speaks periodically, but his speech is not generally understood by others. He attends classes at the Speech and Language Development Center in Buena Park, California, and will graduate in 2015.

2. ILS provides functional skills training for the developmentally disabled, with the goal of securing a self-sustaining, independent living situation in the community with appropriate support, without jeopardizing the individual's health and safety. Claimant's Mother and the Service Agency have previously had disagreements regarding the provision of ILS services. After filing an appeal, Claimant began receiving 20 hours of ILS per month, as a result of a November 2011 Decision in case number 2011080236. Claimant's Mother subsequently filed an appeal involving several issues regarding provision of ILS to Claimant, including the issue of whether the Service Agency should be ordered to fund ILS for Claimant through his chosen vendor, My Life Foundation. Claimant's request to utilize My Life Foundation, which is not vendored with SCLARC, was denied In June 2012, in case number 2012050005.

3. From November 2012 through July 2013, Claimant received ILS from Rite

Start ILS and from Quality of Life ILS. Mother felt that neither of these vendored agencies was able to meet her son's needs and their services were discontinued.

4. An annual Person-Centered Individual Program Plan (PCIPP) meeting took place on May 7, 2013. On September 13, 2013, Service Center provided Claimant's Mother with a list of four ILS vendors that are contracted with SCLARC. These vendors included Passports to Learning, Ideal ILS Center, We Are Family, Inc., and Solutions Plus Services. On September 30, 2013, Mother informed Claimant's Service Coordinator Peter Griego that these four vendors were "out of the question."

5. At the hearing, Mother testified that she did try to contact Passports to Learning, but its phone number was disconnected. As for Solutions Plus Services, she had called this vendor a year before and had determined then that its headquarters were located too far away and it had limited staff. Mother did not call We Are Family, Inc. because she "had no time" to contact it. She did not contact Ideal ILS Center because she had previously observed their employees dealing with other consumers, who had been left "sitting in a room." Mother did not notify Service Agency that she was unable to contact Passports to Learning at the number provided to her, nor did she request the names of any additional contracted vendors for her to consider.

6. On a date not established, Claimant's Mother made a request to obtain ILS for Claimant from My Life Foundation. Rather than obtaining ILS from any of the 33 vendors that are contracted with SCLARC to meet the needs of consumers who are served by that regional center, Claimant's Mother contends that My Life Foundation should be permitted to provide ILS to Claimant as a "courtesy vendor." Claimant's Mother established that My Life Foundation is a vendor with West Los Angeles Regional Center. She does not know whether their employees know sign language, but she has observed their employees at various events and is impressed with the high-quality of services they provide to other consumers.

7. On October 29, 2013, Service Agency sent Claimant's Mother a Notice of Proposed Action advising her of its denial of Claimant's request to utilize a "non-SCLARC" vendor, My Life Foundation.

8. On November 12, 2013, Claimant's Mother filed a Fair Hearing Request appealing the Service Agency's decision.

9. Claimant's Mother believes that Claimant needs ILS services from an agency which employs males² and has workers who are able to use sign language. She states that Claimant "should have the best and most qualified services he can get" and she would be willing to forego ILS for her son, rather than use any of the Service Agency's vendors. Other vendors are not acceptable to her for a variety of reasons. Mother asserts that the ILS providers vendored with SCLARC have staff who lack academic degrees, are not properly trained, have not worked with autistic individuals or do not know sign language. It was not established that Claimant made sufficient efforts to utilize a Service Agency vendor before seeking funding for a non-vendored provider.

10. Claimant's Mother is seeking more control over who provides the services her son receives. To that end, she would like to be part of the Senate Bill 468 program, which would provide self-determination options for individuals with developmental disabilities. SCLARC explained that the provisions of this bill have not yet been implemented and that a pilot program will be rolled out at a future date, which has not yet been determined.

11. At the request of Claimant's Mother, the Service Agency is currently funding a gymnastics program attended by Claimant, which is provided by an outside vendor not

² Claimant's Mother explained that she was seeking a male ILS provider so that he could discuss issues with her son that she, as a female, could not. She did not specify what those issues might be.

contracted with SCLARC. SCLARC funds this service because it has no vendors contracted to provide a gymnastics program for its consumers. The Service Agency may fund outside vendors, when no contracted vendors in its catchment area provide those services.³ The Service Agency's procedure for funding non-vendored providers requires that a claimant first establish that none of SCLARC's vendored providers offer the needed service or are qualified to meet the particular needs of the consumer. Claimant's Mother failed to establish that no vendored providers offer ILS or that none are able to meet the needs of Claimant.

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, Claimant bears the burden of proving, by a preponderance of the evidence, that he should be allowed to utilize his chosen vendor. Claimant did not carry his burden on this issue. (Factual Findings 1-11.) Although Welfare and Institutions Code section 4646, subdivision (a), allows a consumer's preference to be considered, there is nothing in the Lanterman Act which gives consumers the absolute right to pick a desired vendor. While Claimant's Mother believes her chosen vendor would provide "better" ILS services, Claimant did not establish that Claimant's needs cannot be met by utilizing a Service Agency vendor.

2. Welfare and Institutions Code section 4652 provides that "a regional center shall investigate every appropriate and economically feasible alternative for care of a

³ California's has 21 regional centers located throughout the state. The catchment area boundaries for the regional centers conform to county boundaries or groups of counties, except in Los Angeles County, which is divided into seven areas, each served by a separate regional center.

developmentally disabled person available within the region. If suitable care cannot be found within the region, services may be obtained outside of the region.”

3. Welfare and Institutions Code section 4646 provides in relevant part that:

(a) 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*. (Emphases added.)

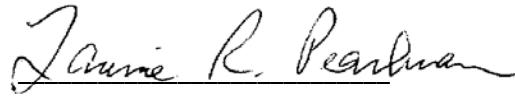
4. The Claimant has a demonstrated need for ILS services. The Service Agency must identify a vendor appropriate to meet the ILS needs of the Claimant. SCLARC has identified contracted vendors able to meet Claimant’s needs and has attempted to work with Claimant’s Mother to identify appropriate, cost-effective choices for ILS from these vendored providers. Claimant failed to present sufficient evidence to establish that suitable ILS to meet Claimant’s needs cannot be provided by SCLARC’s contracted vendors and must, instead, be provided by My Life Foundation, a non-vendored provider.

ORDER

Claimant Stephen P.’s appeal of the Service Agency’s decision is denied. The following order is hereby issued:

Claimant’s request to utilize his chosen vendor, My Life Foundation, is denied.

DATE: December 30, 2013

A handwritten signature in cursive script, reading "Laurie R. Pearlman". The signature is written in black ink and is positioned above the printed name.

LAURIE R. PEARLMAN

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 90 days.