

BEFORE THE  
OFFICE OF ADMINISTRATIVE HEARINGS  
STATE OF CALIFORNIA

In the Matter of:

CLAIMANT,

vs.

FAR NORTHERN REGIONAL CENTER,

Service Agency.

OAH No. 2014030180

DECISION

Administrative Law Judge Jill Schlichtmann, State of California, Office of Administrative Hearings, heard this matter on June 3, 2014, in Eureka, California.

Kathleen Kasmire represented Redwood Coast Regional Center, the service agency. Claimant was represented by her mother.

The matter was submitted for decision on June 3, 2014.

ISSUE

Must Redwood Coast Regional Center fund alterations for claimant's clothing?

FACTUAL FINDINGS

1. Claimant is a 36-year-old woman who resides with her mother and brother. She is eligible for regional center services based on a diagnosis of Down Syndrome. She has a history of chronic hip problems, scoliosis, eczema and a recurrent staph infection. Claimant's mother is her conservator.

2. Claimant receives In-Home Support Services (IHSS) and Supplemental Security Income (SSI). Claimant attends a day program where her mother works.

3. Claimant is four feet, seven inches tall, and her limbs are disproportionately shorter than her trunk. Claimant's mother has difficulty finding clothes that fit her properly. Claimant's mother has altered claimant's clothing regularly, but now has a neck injury and is unable to continue doing so. Claimant's mother has been unable to identify another friend or family member available to make the alterations. Sometimes claimant's mother is able to find shirts with three-quarter sleeves that fit claimant, however, clothing that fits claimant's trunk is often too long in the sleeves and pant legs. If the sleeves or pant legs are too long, claimant's clothing becomes caught on things and she could trip.

4. Claimant's mother has been told by claimant's physician that her small stature and short limbs are caused by Down Syndrome. Claimant's mother presented information from a website that describes "short stature" and "short, stocky arms and legs" as common features of individuals with Down Syndrome. RCRC agrees that a small stature is a feature of individuals with Down Syndrome, but contends that limbs are not disproportionately small. RCRC provided printouts from websites that describe small stature as a common feature of individuals with Down Syndrome, but which do not state that the limbs are disproportionately smaller. The testimony of claimant's mother, the letter from her physician, her photos and the information from the various websites establish that claimant's shorter stature and shorter limbs are caused by Down Syndrome.

5. During the most recent Individual Program Plan (IPP) meeting, claimant's mother requested that RCRC have four pair of pants and eight shirts altered annually, and a jacket altered every three years. RCRC and claimant's mother spoke to an IHSS representative to inquire whether the IHSS worker could alter claimant's clothing. An IHSS supervisor advised claimant and RCRC that only mending clothing, and not altering clothing, could be performed through IHSS.

6. Claimant's RCRC service coordinator investigated the cost of altering

claimant's clothing. She learned that depending on the fabric and work necessary, alterations would cost between \$10 and \$22 per item. Thus, claimant's annual request would cost between \$120 and \$264, plus approximately \$22 every three years for jacket alteration.

7. Claimant's SSI income in the amount of \$875 per month is used to pay for one-third of the rent in the family home, the cost of food, utilities, clothing and incidentals. Claimant's mother testified credibly that there is not enough money left over to cover the cost of alterations.

8. RCRC has covered the cost of alterations for periods of time in the past when claimant's mother was injured. It denied claimant's current request, believing that claimant's shorter limb size is not related to her disability, and contending that she should be able to cover the cost from her SSI.

## LEGAL CONCLUSIONS

1. The State of California accepts responsibility for persons with developmental disabilities under the Lanterman Developmental Disabilities Services Act (Lanterman Act). (Welf. & Inst. Code, § 4500 et seq.) An administrative hearing to determine the rights and obligations of the parties is available under the Lanterman Act. (Welf. & Inst. Code, §§ 4700-4716.) Claimant timely requested a hearing to appeal RCRC's denial of her funding request. Jurisdiction in this matter was thus established.

2. The standard of proof in this case is the preponderance of the evidence, because no law or statute (including the Lanterman Act), requires otherwise. (Evid. Code, § 115.) When one seeks government benefits or services, the burden of proof is on him or her. (*See, e.g., Lindsay v. San Diego Retirement Bd.* (1964) 231 Cal.App.2d 156, 161.) In this matter, claimant bears the burden of proof because she is requesting funding for a service that RCRC is not currently providing. (Factual Findings 5 and 8.)

3. The Lanterman Act 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 life of the community.” (Welf. & Inst. Code, § 4501.) Regional centers are charged with the responsibility of carrying out the state’s responsibilities to the developmentally disabled under the Lanterman Act. (Welf. & Inst. Code, § 4620, subd. (a).)

4. The Lanterman Act provides for services to meet the needs of each person with developmental disabilities, regardless of age or degree of handicap, and at each stage of life. The purpose of the statutory scheme is twofold: to prevent or minimize the institutionalization of developmentally disabled persons and their dislocation from family and community, and to enable them to approximate the pattern of everyday living of nondisabled persons of the same age and to lead more independent and productive lives in the community. (*Association for Retarded Citizens v. Department of Developmental Services* (1985) 38 Cal.3d 384, 388.) Services and supports are defined, in part, to include specialized services and supports, or special adaptations of generic resources. (Welf. & Inst. Code, § 4512, subd. (b).) Individuals with developmental disabilities also have the right to dignity, including the right to wear clothing that fits appropriately and does not create a tripping or catching hazard. (Welf. & Inst. Code, § 4502, subd. (b).)

5. Claimant established that her need for clothing alterations is caused by her disability. (Factual Finding 4.) Before funding a service, however, RCRC must pursue generic resources and natural supports to provide the service. (Welf. & Inst. Code, §§ 4659, subd. (a)(1); 4646.4, subs. (a)(2) and (a)(4); 4648, subd. (a)(8).) RCRC and claimant’s mother investigated whether claimant’s IHSS worker could alter the clothing, and were advised that IHSS does not provide this service. (Factual Finding 5.) Claimant established that her SSI does not provide her with sufficient funds to pay for clothing alterations. (Factual Finding 7.) Claimant’s mother is unable to continue altering her clothing and no other natural support has been identified. (Factual Finding 3.) As such, claimant’s request for clothing

alterations should be funded. RCRC shall fund clothing alterations up to a maximum of \$200 annually.

## ORDER

Claimant's appeal of Redwood Coast Regional Center's determination to deny funding for clothing alterations is granted. Redwood Coast Regional Center shall provide funding for clothing alterations of up to \$200 per year.

DATED: June 10, 2014

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JILL SCHLICHTMANN

Administrative Law Judge

Office of Administrative Hearings

## NOTICE

This is the final administrative decision in this matter. Judicial review of this decision may be sought in a court of competent jurisdiction within ninety (90) days.