

BEFORE THE  
OFFICE OF ADMINISTRATIVE HEARINGS  
STATE OF CALIFORNIA

In the Matter of:

CLAIMANT,

Claimant,

OAH No. 2014100891

vs.

NORTH LOS ANGELES COUNTY REGIONAL  
CENTER,

Service Agency.

DECISION

Glynda B. Gomez, Administrative Law Judge, Office of Administrative Hearings, State of California, heard this matter on November 19, 2014, in Santa Clarita, California.

Claimant was present and was represented by his mother and father who are also his conservators.

Ruth Janka, Director of Consumer Services, represented North Los Angeles County Regional Center (NLACRC).

The record closed on November 19, 2014.

ISSUES

1. Should NLACRC be required to pay for a UCLA meal program for Claimant while he attends the Pathway or Generation Next programs of UCLA extension?
2. Should NLACRC be required to pay the \$3,000 unfunded portion of Claimant's program at Generation Next for the 2014-2015 school year?

3. Should NLARC is required to pay for the Pathways UCLA extension program for the 2015-2016 school year?

## FACTUAL FINDINGS

1. Claimant contends that NLACRC should fund a meal plan and participation in the UCLA Generation Next and Pathway extension programs to further his independent living skills, vocational goals and to provide him with a college-like experience. Claimant further contends that his proposed programs are more cost-effective than any of the alternatives offered by NLARC because he has secured grants for a large portion of the program costs for 2014-2015. Claimant also contends that the meal plan is necessary so that he can practice his ILS skills with others. NLACRC contends that the programs are not vendored or contracted with any regional center and therefore, cannot be monitored for effectiveness. NLACRC also contends that there is no legal authority requiring or allowing it to purchase food for Claimant.

2. Claimant is a 24-year- old young man eligible for regional center services based upon a diagnosis of intellectual disability (mild). Claimant has also been diagnosed with Attention Deficit Hyperactivity Disorder (ADHD) and Dubowitz Syndrome. Claimant has deficits in daily living skills that are necessary for independent living and is naive about dangerous situations.

3. In September of 2014, Claimant enrolled in the Generation Next program of UCLA extension and moved into a shared apartment in Westwood, near UCLA. Previously, Claimant had lived in the family home with his parents and siblings. Claimant is a pleasant young man and enjoys being social. Claimant is interested in obtaining a job in the sports or fitness fields.

4. Claimant's October 26, 2014 Individual Program Plan (IPP) identifies needs in a variety of areas including: nutrition, living arrangements, personal finances, health and well-being, nutrition, social-emotional, recreation, mobility, vocational and hygiene. The

IPP contains goals or desired outcomes for Claimant as follows:

Goal 1.1: I will establish household routines to maintain a healthy lifestyle.

Goal 2.1: I will manage my personal finances.

Goal 3.1: I want to maintain an optimal level of health.

Goal 4.1: I want to be in an optimal level of health by maintaining a healthy diet.

Goal 5.1: I want to learn the public transportation system in my community.

Goal 5.2: I want to develop new friendships and relationships and maintain all current relationships in my life.

Goal 7.0: I want to maintain a clean appearance and good personal hygiene.

5. Claimant participated in the College of the Canyons TLC program through the local school district (TLC) until his special education eligibility terminated when he turned 22 years old. The TLC program was designed for special education students and was a school district program administered on the College of the Canyons campus. The TLC program provided significant academic and social support to the program participants. Claimant obtained a high school certificate through the program and completed some college courses during his participation in TLC.

6. Claimant wishes to continue his education and have a college-like experience. Claimant wishes to attend the UCLA Generation Next program and then continue on to the UCLA Pathway program. Both programs are part of the UCLA extension. The Generation Next program is a precursor to the Pathway two-year certificate program. Claimant's ultimate goal is to obtain a job in the sports or fitness fields after completing his education and to live independently in his own apartment either alone or with a roommate. Claimant and his parents worked with NLACRC on research and potential sources of funding for the UCLA Generation Next and Pathway programs for more than a year and both parties had hope that the Department of Rehabilitation (DOR) would provide some level of funding for the programs. At hearing, the parties stipulated that

DOR had denied Claimant's request for funding.

7. Claimant's parents explored various programs and found the UCLA Generation Next and Pathway programs to be the best fit and most desirable options for Claimant. Claimant is currently attending the UCLA Generation Next program and expects to be accepted by the Pathway program for the 2015-2016 school year.

8. Generation Next is a one-year program funded by the United States Department of Education through the Transition Programs for Students with Intellectual Disabilities (TPSID) grant. The Generation Next program is designed specifically for students with intellectual disabilities and only students with a confirmed diagnosis of intellectual disability are permitted to enter the program. Generation Next is designed to prepare students for continued participation in higher education and has a modified curriculum. Students in the program complete modified core courses, elective courses and group internship activities. Through his elective courses, Claimant would be able to take additional courses in his areas of interest: sports and fitness. The TPSID grant subsidizes the program's provision of classes, recreational opportunities, leisure support, residential support, academic advising and internship support. Tuition for the Generation Next program is \$3,000 per academic year exclusive of room and board expenses. Participants pay \$6,000 per academic year in rent and purchase a meal plan. The meal plan costs range from \$344 per quarter for three meals per week to \$1,482.97 per quarter for 14 meals per week. Most Generation Next participants are enrolled in the residential program and the program recommends that the participants enroll in a 14 meal per week meal plan. Typically, the participants eat lunch and dinner together in the UCLA dining hall, but have breakfast in their apartments with their roommates.

9. The Pathway program is also part of UCLA's Extension Program. The Pathway program is aimed to help young adults with intellectual and developmental disabilities prepare to lead productive lives in the community, through academics and community

activities. The courses are a mix of traditional liberal arts curriculum, internship, portfolio building and prevocational subjects relating to assessing career interests. Community activities are of the social, recreational and cultural variety. The vocational courses make up approximately one third of the required units. As in the Generation Next program, students reside in apartments near the UCLA campus. Students live three or four to an apartment. The Pathway program tuition is \$33,400 per year not including room and board.

10. For both programs, supported living services are provided to participants through Creative Supports, an independent contractor. Creative Supports is a NLACRC vendor and is contracted with NLACRC to provide eight hours per week of independent living skills to support Claimant pursuant to his assessed needs.

11. The UCLA Generation Next and Pathway programs are not vendored by any regional center and have no interest in becoming a vendor or contractor with NLACRC. Additionally, neither program provides progress reports or assessments that can be utilized to determine Claimant's progress toward meeting his IPP goals or the effectiveness of the programs in that regard.

12. NLACRC denied Claimant's request to fund the his meal plan, the Generation Next program and the Pathway program on the grounds that NLARC had no authority to fund the purchase of food, and that the Generation Next and Pathway programs were not vendored by any regional center and could not be monitored for effectiveness.

13. As an alternative, NLACRC proposed that Claimant enroll in the Taft College, Transition to Independent Living (TIL) program, at Taft Community College in Taft, California. The TIL program is vendored with the Kern Regional Center and like the Generation Next program also operates under a TPSID grant and provides a program specific to the needs of individuals with intellectual disabilities. The TIL program literature describes the program as a "postsecondary experience for adults with developmental disabilities emphasizing learning independent living skills." The TIL program is a two-year

certificate program in independent living. The TIL program is self-described as one that “stresses the importance of teaching people to accept responsibility for decisions and choices they make.” The stated goal of the program is to offer educational opportunities in vocational training, independent living skills, basic academics, and planning social leisure activities. TIL students live either in residence halls at Taft Community College or in a 4-bedroom house in the community.

14. The TIL program is substantially similar to the Generation Next and Pathway programs. The differences in the programs are most notably in location, institutional affiliation and vendor status. For Claimant, the Generation Next and Pathway programs are more desirable because they are affiliated with UCLA and allow him to be near his sister who is a UCLA student, but at the same time provide sufficient independence from his parents. The TIL program is much farther away from Claimant’s family than are the UCLA programs and the TIL program is located in a community with which Claimant has no familiarity or interest. Additionally, and importantly, the TIL program has a long waiting list and Claimant is not likely to obtain a placement in the TIL program this year or next. Conversely, Claimant has already been accepted, enrolled, and is attending the Generation Next program.

15. NLACRC also proposed programs based in the NLACRC catchment area including a Tierra Del Sol Foundation community integration program known as NEXUS, and vocational training and supported employment programs offered by Work Training Programs, Inc., Goodwill Southern California. and Pleasant View Industries, Inc. and supported living services provided by a NLACRC vendored agency.

16. The NEXUS program administered by the Tierra Del Sol Foundation has a community integration program and social skills program. The NEXUS program participants are comprised of persons affected with a variety of disabilities with a spectrum of abilities. The NEXUS program provides opportunities for assessment and exploration of

vocational and career interests. NEXUS is not affiliated with a college.

17. The Work Training Program, Inc., Pleasant View Industries, Inc., and Goodwill Southern California programs offer vocational training, supported employment and job coaching to participants, but do not have a residential component.

18. The TIL program, while appropriate for Claimant's needs, is not his preferred program or in his preferred location and more importantly is not available to him at this time because of a lengthy waiting list. The other programs offered by NLACRC are also capable of meeting Claimant's needs in a piecemeal fashion, but lack the core element of an integrated college-like experience that Claimant seeks.

## LEGAL CONCLUSIONS

1. The Lanterman Developmental Disabilities Services Act (Lanterman Act) governs this case. (Welf. & Inst. Code, § 4500 et seq.)<sup>1</sup> An administrative "fair hearing" to determine the rights and obligations of the parties, if any, is available under the Lanterman Act. (§§ 4700-4716.) Claimant requested a fair hearing to appeal the Service Agency's denial of his service requests.

2. The standard of proof in this case is the preponderance of the evidence. (Evid. Code, § 115.)

3. 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 (disability benefits).) In this case, NLACRC has not before agreed to provide funding for tuition for the Generation Next Program, Pathway Program, UCLA meal plan or to reimburse Claimant's parents for such costs previously incurred. Therefore, Claimant has the burden of proving that she is entitled to the relief she requests in this matter.

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<sup>1</sup> All further statutory references are to the Welfare and Institutions Code.

4. The purpose of the Lanterman Act is two-fold: 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 productive and independent lives in the community. (*Association for Retarded Citizens v. Department of Developmental Services* (1985) 38 Cal.3d 384, 388.)

5. In enacting the Lanterman Act, the Legislature accepted its responsibility to provide for the needs of developmentally disabled individuals and recognized that services and supports should be established to meet the needs and choices of each person with developmental disabilities. (Welf. & Inst. Code, § 4501.) The Lanterman Act gives regional centers, such as NLACRC, a critical role in the coordination and delivery of services and supports for persons with disabilities. (Welf. & Inst. Code, § 4620 et. seq.) Welfare and Institutions Code section 4512, subdivision (b), defines the services and supports that may be funded, and sets forth the process through which such are identified, namely, the IPP process, a collaborative process involving consumers and service agency representatives.

6. Welfare and Institutions Code section 4512, subdivision (b), defines services and supports for persons with developmental disabilities as specialized services and supports or special adaptations of generic services and supports directed toward the alleviation of a developmental disability or toward the social, personal, physical, or economic habilitation or rehabilitation of an individual with a developmental disability, or toward the achievement and maintenance of independent, productive, normal lives. Thus, regional centers are responsible for developing and implementing individual program plans, for taking into account consumer needs and preferences, and for ensuring service cost-effectiveness. (Welf. & Inst. Code §§ 4646, 4646.5, 4647, and 4648.)

7. Welfare and Institutions Code section 4646, subdivision (a), requires that services be effective in meeting consumer needs, and maintain a balance between



reflecting consumer and family preference on the one hand while being cost-effective on the other hand. In addition, section 4648, subdivision (a)(6), requires regional centers, when selecting service providers, to consider the provider's ability to deliver quality services which can accomplish all or part of the consumer's individual program plan, the provider's success in achieving objectives set forth in the consumer's IPP, the costs of providing the service compared to other providers, and reasonable progress toward objectives as well as the consumer's choice of provider.

8. Welfare and Institutions Code section 4648, subdivision (a)(3), provides that a regional center may pursuant to vendorization or a contract, purchase services or supports for a consumer from any individual or agency which the regional center and consumer, or where appropriate his or her parents, legal guardian, or conservator or authorized representatives determine will best accomplish all or any part of that consumer's program plan. Vendorization or contracting is the process for identification, selection and utilization of service vendors or contractors, based on the qualifications and other requirements necessary in order to provide the services. This provision is clear that regional centers are authorized to fund services either through the vendor process or by entering into a contract with a service provider.

9. Welfare and Institutions Code section 4648 makes it clear that if the contract process is utilized, the service provider is still subject to constraints and oversight by the regional center. Specifically, Welfare and Institutions Code section 4648, subdivision (a)(4) places limits on the pay rate for the services provided under a contract, and subdivision (a)(6) requires that the regional center monitor the effectiveness of the service in meeting the consumer's IPP goals and the cost effectiveness of the service.

10. In this case, the mandates of section 4648, subdivision (a)(6), cannot be met, in that the Generation Next and Pathway programs do not issue reports or data which will enable the Service Agency to determine the effectiveness of the services offered to

Claimant and how the services compare to other vendored providers in terms of cost-effectiveness. The lack of such information would prevent the Service Agency from complying with section 4646, subdivision (a), since it would not be reasonably able to monitor and determine if the program is meeting Claimant's needs in a cost-effective manner.

11. The fact that the Generation Next and Pathway Programs are not vendored with any regional center does not necessarily prohibit regional center funding. In some instances, a regional center may contract for services. However even a contract for services requires that the service agency have a mechanism to ensure that the service is cost-effective and is aiding the consumer in meeting the objectives of his IPP. In this case, both the Generation Next and Pathway programs have opted not to provide the type of information that NLACRC must evaluate to meet its statutory mandates. Under these circumstances, NLACRC cannot gather the necessary progress reports and assessments that it must have in order to enter into a contract as authorized by the statute as an alternative to vendorization.

12. Accordingly, NLACRC has established that its denial of funding is appropriate. In addition, NLACRC established that there are other resources, although not as desirable, that can provide traditional training and skills development as well as give progress and status reports of Claimant's progress so that NLACRC can monitor the program's effectiveness.

13. Pursuant to Welfare and Institutions Code section 4512, subdivision (b), the UCLA meal plan is not a specialized service or special adaption of generic services and therefore may not be funded by NLACRC.

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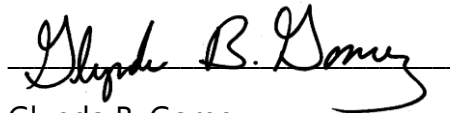
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14. Pursuant to Welfare and Institutions Code sections 4646, subdivision (a), and 4648, subdivisions (a)(3) and (a)(6), Claimant is not entitled to funding from the Service Agency for his tuition for the UCLA Generation Next or Pathway Program.

## ORDER

Claimant's appeal is denied.

DATED: December 5, 2014

A handwritten signature in black ink, appearing to read "Glynda B. Gomez", is written over a horizontal line.

Glynda B. Gomez

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.**