

BEFORE THE  
OFFICE OF ADMINISTRATIVE HEARINGS  
STATE OF CALIFORNIA

In the Matter of:

CLAIMANT,

Claimant,

vs.

SAN GABRIEL/POMONA REGIONAL  
CENTER,

Service Agency.

OAH No. 2015120476

DECISION

Glynda B. Gomez, Administrative Law Judge, Office of Administrative Hearings, State of California, heard this matter on March 8, 2016, in Pomona, California.

Daniela Santana, Fair Hearings Manager, represented San Gabriel/Pomona Regional Center (SGPRC). Claimant was present and represented by her parents.

The matter was submitted on March 8, 2016.

ISSUE

Should SGPRC be required to continue funding Claimant's in home social skills training program.

Claimant contends that her social skills program should not be terminated because she has made progress on her goals, but needs additional time to meet her goals and receives a benefit from the service.

SGPRC contends that the social skills program provided by CBC Education, Inc. (CBC) should be terminated because it is intended to be time-limited and has not been effective for Claimant.

For the reasons set forth below, Claimant's appeal is granted.

## FACTUAL FINDINGS

1. Claimant is a 14-year-old girl who is eligible for regional center services based upon her diagnosis of Mild Intellectual Disability. Claimant also wears glasses and has severe expressive language deficits. She is hesitant to communicate with others and does not interact with peers. She lives with her family which includes her parents, grandparents and several siblings.

2. Claimant attends her local middle school where she receives special education and related services including speech therapy.

3. Claimant's most recent Individual Program Plan (IPP) dated August 31, 2015 provided four goals/outcomes as follows:

Outcome #1 [Claimant] will remain healthy by attending to her medical and dental appointments;

Outcome #2 [Claimant] will continue to keep up with her academics;

Outcome #3 [Claimant] will be more comfortable with initiating and interacting with her peers; and

Outcome #4 Parents would like the IPP report to be translated into Chinese. (Exhibit 2)

4. With respect to Outcome #3, which is pertinent here, the IPP states that:

[Claimant] is able to interact with some of her peers at school. CBC education is providing social skills services, but they will have the issue of not providing services due to having a lack of Cantonese BIs. [Claimant] can be receiving services for a solid 4 months, but services will stop for a while due to not having a Cantonese speaking BI. Parents have expressed their concern about this, but is [sic] very happy with the services from CBC Education. Parents hopes [sic] to see more progress in Claimant's social skills by continuing services with CBC Education. Objective to be continued. (Exhibit 2)

5. The IPP also provides the following supports shall be provided from SGPRC to support Outcome #3:

- a. [Service Coordinator] will explore appropriate funding and program resources. If no generic resource is available and if SGPRC funds are requested, funding for social skills training will be according to SGPRC Board approved funding policy.
- b. CBC Education will provide assessment/progress report to recommend service.
- c. Social skills training is a time limited service that will be reviewed semiannually.

d. [Service Coordinator] will review [Claimant's] social skills needs at each yearly review. (Exhibit 2)

6. Claimant has received 8 hours per month of in-home social skills training and her parents also received training as part of the program. She has received this service for two years. However, the service was not consistently provided to Claimant. There were several significant gaps in service when CBC was unable to provide a behavior interventionist fluent in Cantonese. Claimant speaks English and Cantonese, but her parents speak only Cantonese. Each break in service or change in behavior interventionist effected Claimant's progress. (Exhibit 3)

7. Progress reports from CBC dated October 30, 2014 (Exhibit 3) and May 1, 2015 (Exhibit 4) show that Claimant has made progress toward her goals. The October 30, 2014 progress report lists Claimant's goals in initiation, greetings, communication, sharing, organizational skills and assertiveness. Claimant met her goals in communication, sharing, organizational skills, and assertiveness.

8. In the October 30, 2014 report, CBC reported that Claimant did not meet her goal in initiation (to initiate with other verbally or non-verbally at 50 percent of opportunities) and the vendor recommended that the goal be continued. The progress report notes:

[Claimant] needed multiple prompt to initiate with others. It was noted, she stayed quiet even when presented with preferred items (i.e. iPad) [Claimant] did initiate with her mother. [Claimant] initiated with others, 13% of the opportunities.

9. In the October 30, 2014 report, CBC also reported that Claimant did not meet her goal in greetings (to acknowledge others by waving, nodding, or glancing

toward the person 70 percent of opportunities) and the vendor recommended that the goal be continued. The progress report notes:

[Claimant] was able to acknowledge others, 66% of the opportunities. [Claimant] will acknowledge the presence of family members, but needs cues to acknowledge non familiar people.

10. In the May 1, 2015 progress report, CBC reported that Claimant met her goals in communication and sharing, but not the goals in initiation, greetings, communication, and assertiveness. In the progress report, the vendor recommended that those goals be continued.

11. Also in the May 1, 2015 report, CBC concluded that Claimant did not meet the initiation goal (to initiate with other verbally or non-verbally at 50 percent of opportunities) the vendor recommended that the goal be continued. The progress report notes that:

[Claimant] was able to initiate with others, 46% of the opportunities. [Claimant] needed support to verbally initiate with others.

12. In the May 1, 2015 report, CBC concluded that Claimant did not meet the greetings goal (to acknowledge others by waving, nodding, or glancing toward the person 70 percent of opportunities) and the vendor recommended that the goal be continued, but reduced to acknowledgement during 50 percent of opportunities. The progress report notes:

[Claimant] did not meet her goal. She needed support in greeting others. [Claimant's] mother and the specialist had to

demonstrate how to wave when greeting, but Claimant hesitated to follow through. She greeted others without support, 35% of the opportunities.

13. In the May 1, 2015 report, CBC concluded that Claimant had not met her goal in assertiveness (to be assertive with others by saying "No", "Stop", or "Don't touch me" at 50% of opportunities) and the vendor recommended that the goal be continued. The progress report notes:

[Claimant needed verbal support to demonstrate assertiveness with others. She was able to be assertive, 15% of the opportunities. During games [Claimant] would say "no, my turn" when the specialist tried to cheat. [Claimant] needed verbal cues to say "stop" when the specialist would abruptly take her things.

14. In the May 1, 2015 report, CBC's case manager and clinical coordinator both recommended a continuation of the service because Claimant had not met all of her goals.

15. CBC notified Claimant's father in October of 2015, that it intended to implement a three month "fade out" of Claimant's social skills services. Claimant's father contacted Claimant's service coordinator for guidance. The service coordinator contacted CBC and confirmed that it intended to "fade out" the service over a three month period.

16. The evidence did not establish the clinical basis for discontinuation of the social skills service. CBC did not conduct an assessment or provide an updated progress report to support the "fade out" or discontinuation of the service. The progress reports in evidence as Exhibits 3 and 4 both show that Claimant was making progress with the

service and her progress had been impeded by CBC's staffing challenges. The evidence clearly establishes that Claimant continues to have social skills challenges that impact her ability to function independently and interact with others and that she has made progress with this service.

17. SGRPC has a Purchase of Service (POS) Policy which guides its purchase and provision of services. The POS Policy was approved by the Department of Developmental Services in July of 2010. With respect to Social Skills training, the POS Policy provides:

Social Skills training is provided to children and young adults to develop appropriate social interaction skills so they may participate in their home and community. Social Skills training is provided individually or in a group format. It addresses significant challenges in one or more of the following areas:

Engagement and awareness of other people: The person's ability to engage or be engaged by other people and his/her level of interest in interacting with others.

Verbal and non-verbal social communication: Non-verbal skills include appropriate eye contact, ability to point and wave, and ability to read other people's non-verbal cues. Verbal skills include the ability to initiate and sustain a conversation, use proper intonations, and listen appropriately.

Play skills: The ability to initiate play and take turns, play in parallel with other children, cooperate and collaborate in play, and use symbols and imagination in play.

Social skills training is typically provided one to two times per week and is time-limited, usually not to exceed one to two years. It entails a detailed curriculum with meaningful and measurable outcomes and parent participation. It is expected to address specific goals and objectives identified by the Individual Program Plan (IPP) team and prepare the child or young adult to transition to inclusive environment where he/she will be able to practice the skills learned and continue to build new skills.

The regional center encourages families to involve their children in typical social and recreational activities in the community where they will they will be able to practice the skills learned and continue to build new skills.

Regional center may purchase social skills training if the following criteria are met:

1. The child or young adult exhibits significant needs in communication and social interaction that prevent him/her from forming relationships in the community or benefiting from social and recreational activities with typical peers.

AND

2. An assessment conducted by a qualified professional provides evidence that the individual's social skills will improve with a structured, time-limited intervention.

AND

3. The parents or primary caretaker agree to assume a major role in implementing training strategies between sessions.

Services will not continue unless the individual, parent, legal guardian, or conservator (when appropriate) and the regional center agree and reasonable progress toward IPP objectives has been made. Progress in reaching the objectives will be reviewed every six (6) months or at the end of a program session.

18. The POS policy does not prohibit the continued funding of Claimant's social skills training by SGPRC.

## LEGAL CONCLUSIONS

1. The Lanterman Developmental Disabilities Services Act (Lanterman Act) governs this case. (Welf. & Inst. Code, § 4500 et seq.) 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 SGPRC's decision to terminate her social skills training.

2. The burden of proof is on the party seeking to terminate the service or change the status quo. In this case, that burden is on SGPRC as the party seeking to terminate the service. The standard of proof in this matter is a preponderance of the evidence. (See Evid. Code, §§ 115 and 500.)

3. 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.)

4. 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 SGPRC, 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.

5. 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, 4646.4, 4646.5, 4647, and 4648.)

6. Welfare and Institutions Code section 4646, subdivision (a), provides that it is the intent of the Legislature to ensure that the IPP and provision of services and supports by the regional center system is centered on the individual and the family of

the individual with 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 also provides that it is the further intent of the legislature that the provision of services to consumers and their families 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.

7. In this case, Claimant is a teenage girl struggling with severe social skills deficits that impede her ability to interact with others. These skills are essential to her integration and participation in the community. Community integration is a core purpose of the Lanterman Act and must be given weight. Claimant has experienced some success and measurable progress in her social skills program. Outcome #3 of Claimant's IPP specifically targets initiation and interaction with her peers. The social skills training was a support outlined in the IPP for this goal. SGPRC seeks to fade and terminate the service because Claimant has not progressed as quickly as they had hoped and its POS policy provides that the service is generally a one to two year service. Here, Claimant has extreme challenges in her social skills that impact her ability to lead an independent and productive life coupled with language challenges. Finding an appropriate behavior interventionist with Cantonese language skills to work with her and develop a rapport required extra efforts from the vendor. Although the service has been on SGPRC's system for two years, Claimant did not get the benefit of the two years of service because of the breaks in service and the vendor's staffing issues. Additionally, her parents were deprived of the opportunity to receive training during those breaks. Claimant still needs significant assistance in the targeted area and the evidence did not establish any clinical basis for discontinuing the service or determining effectiveness. The most recent progress report from the vendor was 10 months old and no assessment

had been conducted to determine Claimant's present levels of social skills performance. While the POS Policy is a guideline that assists the IPP team and the service coordinators in designing services and supports for consumers, it is not absolute. In these circumstances, SGPRC failed to establish by a preponderance of the evidence that Claimant's social skills service should be terminated at this juncture. For the foregoing reasons, funding for Claimant's social skills training is extended for an additional six month session. SGPRC should request that a new progress report be prepared by CBC and consider conducting a formal assessment of Claimant's social skills for evaluation by the IPP team.

## ORDER

Claimant's appeal is granted. The San Gabriel Pomona Regional Center shall continue Claimant's Social Skills Training for an additional six months from the effective date of this date.

DATED: March 15, 2016

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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.**