

BEFORE THE  
OFFICE OF ADMINISTRATIVE HEARINGS  
STATE OF CALIFORNIA

In the Matter of:

CLAIMANT,

vs.

REDWOOD COAST REGIONAL CENTER,

Service Agency.

OAH No. 2016010048

DECISION

Administrative Law Judge Juliet E. Cox, State of California, Office of Administrative Hearings, heard this matter on February 9, 2016, in Lakeport, California.

Kathleen Kasmire, Consumer Services Manager, represented service agency Redwood Coast Regional Center (RCRC), with assistance from Consumer Services Manager Stacy Fekkers.

Claimant's aunt advocated for him at hearing. Claimant was present.

The matter was submitted on February 9, 2016.

ISSUE

Must RCRC fund the purchase of new orthopedic shoes and shoe inserts when Claimant's current shoes and inserts wear out?

## FACTUAL FINDINGS

1. Claimant is an RCRC consumer in his mid-40's with Down syndrome. His vision and balance are poor, and as he has aged he has developed muscle and joint problems in his feet.

### BACKGROUND OF CLAIMANT'S REQUEST

2. For many years, claimant has worn orthopedic shoes with special inserts. He rarely if ever wears other shoes, because when he does he experiences pain and difficulty walking.

3. Claimant replaces his shoes approximately annually and his shoe inserts approximately quarterly. Claimant must replace his shoes and inserts this frequently because they wear out from daily use.

4. In November 2015, claimant's Medi-Cal health insurance provider denied coverage for new shoes and inserts for claimant. Claimant asked RCRC to pay for these shoes. To evaluate claimant's request, RCRC sought documentation showing the medical necessity for the shoes and showing that claimant had no other resources from which to pay for them.

5. After claimant's family advocated on his behalf with the Medi-Cal provider, the provider paid for a new pair of shoes and for four pairs of inserts in December 2015. The Medi-Cal provider has stated to claimant's family, however, that it will pay for orthopedic shoes and inserts only once every five years.

### MEDICAL NECESSITY FOR ORTHOPEDIC SHOES AND SHOE INSERTS

6. Claimant's foot problems are related to, and characteristic of, Down syndrome.

7. Claimant's podiatrist has prescribed the particular shoes and inserts claimant wears. They are necessary not only because they address existing foot

problems but also because they enable claimant to maintain his health through regular physical exercise.

8. Claimant is likely to need similar shoes in late 2016. The evidence did not show that claimant's podiatrist already has prescribed replacement shoes and inserts for late 2016.

#### AVAILABILITY OF NON-RCRC RESOURCES TO PAY FOR REPLACEMENT SHOES

9. Claimant does not presently have other resources, such as disposable income or Medicare coverage, that might supplement his Medi-Cal coverage as a source of payment for replacement shoes.

10. RCRC's Wellness Nurse has many years' experience working with claimant's Medi-Cal health insurance provider. Because claimant's podiatrist considers his shoes medically necessary, the nurse believes that she may be able to persuade the Medi-Cal provider to cover replacement orthopedic shoes and inserts every year, rather than at longer intervals. She has not yet contacted the Medi-Cal provider.

11. RCRC's Service Coordinator became claimant's case manager in November 2015. She has worked with other consumers in positions similar to claimant's to increase their incomes by securing additional Social Security benefits and Medicare coverage for them. She has not yet begun to investigate claimant's potential eligibility for these benefits.

12. RCRC has funded similar orthopedic shoes for consumers (1) who need such shoes to remain healthy and independent; (2) who do not have Medi-Cal, Medicare, Social Security, or other special funding to cover such shoes; and (3) who cannot afford such shoes otherwise. These circumstances are not common, but they do occur occasionally.

## LEGAL CONCLUSIONS

1. The State of California accepts responsibility for persons with developmental disabilities under the Lanterman Developmental Disabilities Services Act (the Lanterman Act). (Welf. & Inst. Code, § 4500 et seq.) The overall goal of the state's services is "to enable persons with developmental disabilities to approximate the pattern of everyday living available to people without disabilities of the same age." (*Id.*, § 4501.) Lanterman Act services are provided through a statewide network of private, nonprofit regional centers, including RCRC. (*Id.*, § 4620.)

2. The Lanterman Act calls for RCRC to provide a wide variety of services to claimant, with the goal of enabling him to live as independently as possible. (Welf. & Inst. Code, § 4501; *id.*, § 4640.7, subd. (a).) At the same time, the Lanterman Act also directs RCRC to provide those services in a cost-effective manner. (*Id.*, § 4646, subd. (a).) In addition, RCRC may not use its funding to duplicate services for which funding is available to claimant from other sources. (*Id.*, § 4646.4, subds. (a)(2), (a)(3).)

3. RCRC need not reimburse claimant for the shoes and shoe inserts he purchased in December 2015, because his Medi-Cal provider covered them.

4. Any request that RCRC fund purchase of claimant's next pair of shoes and next set of inserts is premature, because the evidence at this hearing did not establish that claimant will be unable to secure funding for replacement shoes and inserts before his current shoes and all of his current inserts wear out. RCRC staff members may have contacts or resources that will assist claimant's family in securing additional medical coverage or income for claimant. If he secures such funding, he will be able to use this other medical coverage or income to replace his shoes when his podiatrist prescribes replacements. RCRC should consider funding new orthopedic shoes and inserts for claimant only if claimant's podiatrist prescribes additional shoes and inserts that no other service provider or income source will cover.

## ORDER

Claimant's appeal from RCRC's December 2015 decision denying funding for orthopedic inserts and shoes is denied.

DATED: February 10, 2016

\_\_\_\_\_/s/\_\_\_\_

JULIET E. COX

Administrative Law Judge

Office of Administrative Hearings

## NOTICE

This decision is the final administrative decision in this matter. Both parties are bound by this decision. Either party may appeal this decision to a court of competent jurisdiction within 90 days.