

BEFORE THE  
OFFICE OF ADMINISTRATIVE HEARINGS  
STATE OF CALIFORNIA

In the Matter of Claimant's Request for  
Funding for Vehicle Modifications and a  
Communication Device:

OAH No. 2016070423

CLAIMANT,

and

INLAND REGIONAL CENTER,

Service Agency.

DECISION

Mary Agnes Matyszewski, Administrative Law Judge, Office of Administrative Hearings, State of California, heard this matter in San Bernardino, California, on September 26, 2016.

Claimant's mother appeared telephonically and represented claimant.

Stephanie Zermeño, Consumer Services Representative, Fair Hearings and Legal Affairs, represented the Inland Regional Center (IRC).

The matter was submitted on September 26, 2016.

ISSUES

1. Should IRC fund claimant's request for vehicle modifications to the vehicle she intends to purchase?
2. Should IRC fund claimant's request for a communication device?

## FACTUAL FINDINGS

### JURISDICTIONAL MATTERS

1. On June 28, 2016, IRC notified claimant that his requests for IRC to fund a communication device and vehicle modifications was denied.

On July 1, 2016, claimant requested a fair hearing. Claimant was thereafter given notice of this hearing.

### EVIDENCE PRESENTED AT HEARING

2. Claimant is currently a 27-year-old male who qualified for regional center services on the basis of diagnoses of epilepsy, cerebral palsy, and profound intellectual disability. Claimant also has a diagnosis of blindness.

3. At the start of the hearing, IRC introduced a notification of resolution agreement it had provided to claimant that she received on the morning of the hearing. In it IRC agreed to fund the vehicle modification at a cost of \$32,515 and requested that once the vehicle was modified, that claimant's mother transport him for a speech and language consultation at Goodwill Technology Center in Santa Ana.

4. Claimant's mother had concerns regarding the language of the agreement, the parties could not resolve the matter, and this hearing took place.

5. Consumer Services Coordinator Monica Siegers testified about her involvement with claimant's requests. She explained that in March 2016 during the Individual Program Plan (IPP) meeting when mother requested vehicle modification for a truck she planned to purchase, IRC advised her of documents it would need to evaluate that request. Although mother sent three estimates from vendors, she did not provide a letter documenting a denial of her request from Medi-Cal nor a physician recommendation for the modifications. However, IRC reviewed the three estimates, and authorized an expenditure to Better Life Mobility Center of \$32,515 to modify the

vehicle mother intended to purchase. To date, mother still has not purchased the vehicle. CSC Siegers also explained that IRC requested that claimant be assessed by a speech therapist in order to evaluate his request for a communication device. To date, mother has not taken claimant for that evaluation.

6. Program Manager Maya Lawrence testified that IRC cannot determine what communication device claimant requires unless he undergoes the speech therapy evaluation. Ms. Lawrence stated IRC has agreed to pay the vehicle modification cost once mother purchases the vehicle.

7. Mother testified she has not yet purchased the vehicle, not wanting to do so until she knew that IRC would pay for the modifications. Mother testified about the special needs trust for claimant and that she will seek to have the trust pay for the vehicle or, alternatively, seek a loan. Mother explained that the \$32,515 offer was contingent upon her purchasing her desired vehicle, a 2016 2500 Chevy Z71 4x4 truck. She was concerned that the delays in getting the modification approved limit her ability to purchase that vehicle as newer models are now being delivered to dealerships. Moreover, should she be successful in purchasing the vehicle, mother was concerned about insurance coverage while the vehicle is in transit with the vendor performing those modifications. IRC explained that the vendors have insurance to cover those issues.

Mother testified that she has not taken claimant for the speech therapy evaluation because she is unable to transport him to the facility. She testified that they live in a remote area and there is no available public transportation, although a rental company has indicated it will rent a van to her. IRC did not offer any evidence to refute that testimony.

## LEGAL CONCLUSIONS

### BURDEN OF PROOF

1. In a proceeding to determine whether or not an individual is eligible for services, the burden of proof is on the claimant to establish that the services are necessary to meet the consumer's needs. The standard is a preponderance of the evidence. (Evid. Code, § 115.)

### STATUTORY AUTHORITY

2. The Lanterman Act is set forth at Welfare and Institutions Code section 4500 et seq.

3. Welfare and Institutions Code section 4501 states:

The State of California accepts a responsibility for persons with developmental disabilities and an obligation to them which it must discharge. Affecting hundreds of thousands of children and adults directly, and having an important impact on the lives of their families, neighbors and whole communities, developmental disabilities present social, medical, economic, and legal problems of extreme importance . . .

An array of services and supports should be established which is sufficiently complete to meet the needs and choices of each person with developmental disabilities, regardless of age or degree of disability, and at each stage of life and to support their integration into the mainstream life of the community. To the maximum extent feasible, services

and supports should be available throughout the state to prevent the dislocation of persons with developmental disabilities from their home communities.

4. Welfare and Institutions Code section 4512, subdivision (b) defines "services and supports" as:

[S]pecialized 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. The determination of which services and supports are necessary for each consumer shall be made through the individual program plan process. The determination shall be made on the basis of the needs and preferences of the consumer or, when appropriate, the consumer's family, and shall include consideration of a range of service options proposed by individual program plan participants, the effectiveness of each option in meeting the goals stated in the individual program plan, and the cost-effectiveness of each option . . . Nothing in this subdivision is intended to expand or authorize a new or different service or support for any consumer unless that service or support is contained in his or her individual program plan.

5. Welfare and Institutions Code section 4646, subdivision (a), provides in part:

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 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 provisions of services to consumers and their families be effective in meeting the goals stated in the [IPP], reflect the preferences and choices of the consumer, and reflect the cost-effective use of public resources.

6. Welfare and Institutions Code section 4646.4 requires the regional center to consider generic resources and the family's responsibility for providing services and supports when considering the purchase of regional center supports and services for its consumers.

7. Welfare and Institutions Code section 4648 states in part:

In order to achieve the stated objectives of a consumer's individualized program plan, the regional center shall conduct activities including, but not limited to all of the following:

(a) Securing needed services and supports.

(1) It is the intent of the Legislature that services and supports assist individuals with developmental disabilities in achieving the greatest self-sufficiency possible and in exercising personal choices. The regional center shall secure services and supports that meet the needs of the consumer, as determined by the consumer's individual program plan...

[¶...¶]

(8) Regional Center funds shall not be used to supplant the budget of any agency which has the legal responsibility to serve all members of the general public and is receiving public funds for providing those services.

8. Welfare and Institutions Code section 4659 requires the regional center to identify and pursue all possible sources of funding including, but not limited to, governmental or other entities or programs required to provide or pay the cost of providing services, including Medi-Cal, Medicare, the Civilian Health and Medical Program for Uniform Services, school districts, federal supplemental security income and the state supplementary program, and private entities, to the maximum extent they are liable for the cost of services, aid, insurance, or medical assistance to the consumer. Subject to certain limitations, regional centers shall not purchase any service that would otherwise be available from Medi-Cal, Medicare, the Civilian Health and Medical Program for Uniform Services, In-Home Support Services, California Children's Services, private insurance, or a health care service plan when a consumer or a family meets the criteria of this coverage but chooses not to pursue that coverage. This section "shall not be construed to impose any additional liability on the parents of children with developmental disabilities, or to restrict eligibility for, or deny services to, any individual who qualifies for regional center services but is unable to pay."

## EVALUATION

9. The Lanterman Act and the applicable regulations set forth criteria that a claimant must meet in order to qualify for regional center services. Claimant had the burden of demonstrating her need for the requested service and support, funding vehicle modifications and funding a communication device. IRC has agreed to fund \$32,515 so that Better Life Mobility Center can modify the vehicle claimant's mother intends to purchase. IRC also agrees to evaluate claimant's request for a communication device after he undergoes a speech therapy evaluation. Mother demonstrated that a rental vehicle is required to get him to that evaluation and that there is no other publicly available source of travel. All parties agreed that the requested vehicle modifications meet claimant's needs and it will cost \$32,515 to modify the vehicle mother intends to purchase. The evidence demonstrated that purchasing the vehicle modifications would be a cost-effective use of public funds and no evidence established that there was an available generic resource that had not been pursued. Accordingly, claimant met her burden of proof regarding the vehicle modifications issue. IRC shall fund \$32,515 to modify the vehicle once mother purchases it.

Regarding the issue of a speech therapy evaluation, claimant established that there is no publicly available transportation to take him to Goodwill Technology Center in Santa Ana. IRC shall fund the cost of a one day rental of a van so that claimant's mother can transport him for that evaluation. Thereafter, IRC will review that evaluation, as well as any other relevant documents, and advise claimant of its response to his request for a communication device. If mother is not satisfied with that response, she may file a Request for Fair Hearing.

## ORDER

Claimant's appeal from the Inland Regional Center's determination that it will not fund vehicle modifications or a communication device is granted in part and denied part. Inland Regional Center shall fund \$32,515 to Better Life Mobility Center to modify the vehicle that claimant's mother intends to purchase, after she has purchased that vehicle.

Inland Regional Center shall fund the cost of renting a van one day so claimant's mother can transport claimant to Goodwill Technology Center in Santa Ana for a speech therapy evaluation. Once that evaluation is completed, it will be provided to Inland Regional Center so that it can review it, as well as any other relevant documents, in order to evaluate claimant's request for a communication device. After it has conducted that review, Inland Regional Center will advise claimant of its determination. Should claimant not agree with that decision, he may file a Request for Fair Hearing.

DATED: October 7, 2016

---

MARY AGNES MATYSZEWSKI

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 ninety days.**