

BEFORE THE  
OFFICE OF ADMINISTRATIVE HEARINGS  
STATE OF CALIFORNIA

In the Matter of:

CLAIMANT,

v.

ALTA CALIFORNIA REGIONAL CENTER,

Service Agency.

OAH No. 2016120920

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DECISION

The fair hearing in this matter was heard by Administrative Law Judge Marcie Larson (ALJ), Office of Administrative Hearings (OAH), State of California, on February 2, 2017, in Sacramento, California.

Alta California Regional Center (ACRC) was represented by Robin Black, Legal Services Manager.

Claimant's mother represented claimant at the hearing.

Evidence was received, the record was closed and the matter was submitted for decision on February 2, 2017.

ISSUE

Is ACRC required to reimburse claimant's mother \$1,100 for the cost of anesthesia administered to claimant during a dental procedure?

## FACTUAL FINDINGS

1. Claimant is a 19-year-old man who is eligible for ACRC services based on his diagnosis of Autism. He receives services and supports pursuant to the Lanterman Developmental Disabilities Services Act (Welf. & Inst. Code, §4500 et seq.).

2. On May 10, 2016, claimant's mother and Teresa Vargas, Service Coordinator for ACRC, met for claimant's annual Individual Program Plan (IPP) meeting. During the meeting, claimant's mother informed Ms. Vargas that claimant needed to have cavities filled and would require sedation for the dental work to be completed. Claimant's medical needs were provided through Anthem Blue Cross Medi-Cal and Delta Dental through claimant's mother's employer.

3. On May 18, 2016, claimant's mother telephoned Ms. Vargas and explained that claimant had a dental procedure scheduled for September. Claimant required sedation for the procedure which could cost up to \$1,000. Claimant's mother asked if ACRC could help with the cost. Ms. Vargas explained that since claimant had private dental insurance, she would have to "pay out of pocket" and then submit the receipt and copy of payment. Ms. Vargas would then submit the information and request to the "Best Practice Committee" (Committee) for a determination of whether ACRC could reimburse claimant's mother for the cost. Ms. Vargas informed claimant's mother that there was "no guarantee" that ACRC would reimburse her for the cost.

4. On October 13, 2016, claimant's mother telephoned Ms. Vargas and informed her that she mailed a copy of the anesthesia bill to ACRC, which her insurance company would not pay. In response, Ms. Vargas sent claimant's mother an email reminding her that she also needed to submit proof of payment of the anesthesia bill. Once that information was received, Ms. Vargas explained that she would submit the information for reimbursement, but there was no guarantee that ACRC would reimburse her for the cost of the anesthesia.

5. On October 18, 2016, Ms. Vargas submitted the claim for reimbursement of anesthesia cost in the amount of \$1,100, to the Committee. On October 25, 2016, the Committee denied the request for reimbursement. The Committee determined that claimant's mother should have requested payment for anesthesia prior to the procedure and the request should have been included in the IPP. Additionally, the Committee determined that claimant's mother could request claimant's dentist to send a request for funding to Medi-Cal. On October 26, 2016, Ms. Vargas informed claimant's mother of the Committee's decision to deny her request for reimbursement.

6. On November 23, 2016, ACRC issued a Notice of Proposed Action (NOPA) to claimant's mother, stating that her request to be reimbursed \$1,100 for the cost of anesthesia administered to claimant during a dental procedure was denied. Specifically the NOPA states in part:

Coverage for anesthesia for dental work is available through your family's private insurance plan, Delta Dental, as well as through a generic resource: Medi-Cal. ACRC cannot purchase services which it is the responsibility of other entities to fund or cover when a client qualifies for coverage but does not pursue that coverage. Additionally, the decision to secure and pay for anesthesia for dental treatment was made outside of the planning team process. Regional centers may only fund services which are first agreed upon by the planning team through the planning team process.

7. On or about December 1, 2016, claimant's mother filed with ACRC a Fair Hearing Request and a request for an informal meeting. On January 9, 2017, an informal meeting took place which included claimant's mother, Ms. Vargas, Toby Golden, ACRC

Client Services Manager, and Robin Black, Legal Services Manager and Designee of the ACRC Executive Director. At the informal meeting, claimant's mother explained that prior to claimant's scheduled dental work, she contacted Ms. Vargas and requested assistance to pay for the cost of anesthesia from ACRC. Ms. Vargas told her to pay for the anesthesia and submit the bill to the ACRC for payment. Claimant's mother also explained that Delta Dental does not pay for in-office anesthesia. In the past, Delta Dental did cover anesthesia cost incurred when claimant had dental work performed at a hospital. Additionally, neither claimant's dentist nor the anesthesiologist accepted Medi-Cal. Claimant's mother explained that she was not willing to change dental service providers in order to get Medi-Cal coverage for claimant.

8. On January 17, 2017, Ms. Black issued an informal meeting Fair Hearing Decision. ACRC denied claimant's request for reimbursement for cost of anesthesia, on several grounds, including that: (1) generic resources existed to provide full payment of costs of dental treatment and anesthesia for claimant; (2) the contention that payment of anesthesia cost were a hardship is not sufficient for ACRC to grant an exception; and (3) pursuant to Welfare and Institutions Code section 4659.1, ACRC may assist a client by paying "copayments, coinsurance, or deductibles charged by a family's private health services plan or health insurance policy." However, the anesthesia costs were related to claimant's private dental plan, and claimant's mother was not charged a copayment. Rather she paid the entire cost of the anesthesia because Delta Dental did not cover the costs. As a result, Welfare and Institutions Code section 4659.1 did not apply. Claimant's mother appealed the informal meeting Fair Hearing Decision.

9. Ms. Vargas, claimant's former Service Coordinator, testified at hearing. At the time Ms. Vargas met with claimant's mother on May 10, 2016, for claimant's IPP, she did not request assistance with the payment of anesthesia costs for claimant's planned dental procedure. As a result, obtaining funding for the anesthesia costs was not

included as a goal or objective for claimant's IPP. Claimant's mother contacted Ms. Vargas approximately one week after the IPP meeting. For the first time, she requested that ACRC pay for the anticipated costs of the anesthesia that would be administered to claimant during a dental procedure scheduled for September. Ms. Vargas advised claimant's mother that because claimant had private dental coverage, she would have to pay for the costs and then submit a request for reimbursement to the Committee. Ms. Vargas testified that Committee is responsible for determining whether an exception applies that would allow for reimbursement of the anesthesia costs. Ms. Vargas spoke to her supervisor, Mr. Golden and the Committee regarding the request for reimbursement.

10. Mr. Golden also testified at hearing. Mr. Golden reviewed claimant's mother's request for reimbursement of anesthesia costs. Mr. Golden explained the request for reimbursement was denied for several reasons. The request was made outside of the IPP planning team process. Claimant's mother did not identify the need to obtain coverage for dental anesthesia as a goal or objective. If she had done so, ACRC could have assisted claimant's mother with identifying generic resources to pay for the cost. Additionally, Medi-Cal, which is a generic resource, should have been explored and exhausted by claimant's mother as a source to pay for the cost of anesthesia.

11. At hearing, claimant's mother contended that she relied upon Ms. Vargas's instruction to pay claimant's anesthesia costs and submit the request for reimbursement. Claimant's mother explained that she was not given information about generic resources so she did not understand that she could seek payment for the cost of anesthesia from another source. However, she acknowledged that her private insurance paid for the cost of dental anesthesia when it was administered to claimant in the hospital. Claimant's mother also explained that claimant's dentist and anesthesiologist

would not accept Medi-Cal. Claimant has been treated by his dentist since he was eight years old. Claimant's mother was not willing to find a different dental provider for her son that accepted Medi-Cal.

12. Claimant's mother failed to establish the ACRC is required to reimburse her \$1,100 for the cost of anesthesia administered to claimant during a dental procedure. The funding of services must be agreed upon in the IPP process. Claimant's mother did not identify the need for payment of dental anesthesia cost as a goal or objective. Additionally, claimant has private dental insurance that previously covered the cost of anesthesia in a hospital setting. Claimant's mother had the ability to explore the option to have Delta Dental pay for the costs of anesthesia, in a setting in which anesthesia would be covered. Claimant is also covered by Medi-Cal, a generic resource that was available to him to cover the cost of dental anesthesia. Claimant's mother elected did not pursue coverage from Medi-Cal because she selected a dentist and anesthesiologist that did not accept Medi-Cal. ACRC cannot purchase services which are the responsibility of other entities to cover or when a client elects not to pursue coverage for which he qualifies. Consequently, claimant's appeal must be denied.

## 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. (Welf. & Inst. Code sections 4700-4716.) Claimant's mother requested a fair hearing to appeal ACRC's denial of her request for reimbursement of the cost of anesthesia administered to claimant during a dental procedure.

2. The burden is on claimant's mother to establish that ACRC is obligated to reimburse her for the cost of anesthesia administered to claimant, which is a new benefit. (See *Lindsay v. San Diego Retirement Bd.* (1964) 231 Cal.App.2d 156, 161.)

3. The funding of services must be agreed upon during the IPP planning team process. (See Welf. & Inst. Code, § 4646.7, subd. (a).) Claimant's mother made the decision to obtain dental treatment and dental anesthesia outside the planning team process.

4. ACRC may not fund services which are available from other resources. (See Welf. & Inst. Code, § 4659.) ACRC also "shall not be used to supplant the budget of any agency that has a legal responsibility to serve all members of the general public and is receiving public funds for providing those services." (Welf. & Inst. Code, § 4648, subd. (a)(8).) Claimant has private dental insurance. Additionally, Medi-Cal is obligated to provide claimant with any medically necessary services. Claimant's mother had the option to seek funding for his dental anesthesia from Medi-Cal. She failed to do so. Instead, she selected a dental provider and anesthesiologist who did not accept Medi-Cal. Claimant's mother is free to choose a dental provider for claimant. However, ACRC is not obligated to reimburse her for costs she incurred as a result of her choice not to utilize her dental insurance or Medi-Cal on claimant's behalf.

## ORDER

Claimant's appeal is DENIED. ACRC is not required to reimburse claimant's mother \$1,100 for the cost of anesthesia administered to claimant during a dental procedure.

DATED: February 7, 2017

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MARCIE LARSON

Administrative Law Judge

Office of Administrative Hearings

## NOTICE

**This is the final administrative decision in this matter. Each party is bound by this decision. An appeal from the decision must be made to a court of competent jurisdiction within 90 days of receipt of the decision. (Welf. & Inst. Code, § 4712.5, subd. (a).)**