

BEFORE THE  
OFFICE OF ADMINISTRATIVE HEARINGS  
STATE OF CALIFORNIA

In the Matter of:

CLAIMANT,

vs.

EASTERN LOS ANGELES REGIONAL  
CENTER,

Service Agency.

OAH CASE No. 2017010377

DECISION

This matter came on regularly for hearing before Samuel D. Reyes, Administrative Law Judge, Office of Administrative Hearings, on February 16, 2017, in Alhambra, California.

Toni DeAztlan, Attorney at Law, represented Claimant<sup>1</sup>.

Aaron Abramowitz, Attorney at Law, represented Eastern Los Angeles Regional Center (Regional Center or Service Agency).

Oral and documentary evidence was received at the hearing and the matter was submitted for decision.

ISSUE

Should Service Agency fund 190 hours of independent living skills (ILS) services provided by PALS, LLC (PALS)?

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<sup>1</sup> Initials have been used instead of family surnames to protect Claimant's privacy.

## FACTUAL FINDINGS

1. Claimant is a 56-year-old Service Agency consumer with diagnoses of a condition closely related to intellectual disability or requiring treatment similar to that required for individuals with intellectual disability, seizure disorder, depressive disorder NOS, and schizophrenia. He resides at home with his mother and father.

2. Claimant is verbal and ambulatory. He needs assistance with self-care, money management, and medical services. He needs reminders to attend to his personal hygiene, and at times requires support in performing some of the tasks. He is able to engage in some light cooking and to feed himself, but needs assistance in making healthy food choices. He has a drivers' license and is able to drive, but gets lost and needs someone in the car with him.

3. In the past, Claimant has attended an adult day program, but is presently receiving no services from Service Agency outside service coordination.

4. At the last individual program planning (IPP) meeting, held on September 22, 2016, Service Agency, Claimant, and Claimant's mother agreed on the following desired outcomes: (1) Claimant will learn to manage his expenses and medical needs while living in the family home; (2) Claimant will receive adult services, to train and assist with taking a class and volunteer work; (3) Claimant will receive medical and dental care services as needed and will know how to contact his doctor's office; (4) Claimant will receive neurological follow-up visits to maintain seizure control and monitor medications; (5) Claimant will continue to have adequate personal hygiene; and (6) Claimant will have transportation for medical and personal needs.

5. In support of desired outcome (1), the IPP team agreed that Claimant needed ILS services "to support development of his independence." (Exh. 8, at p. 19.) In this regard, Service Agency agreed "to fund for ILS provided by PALS, per policy and procedures, pending assessment." (*Id.*, at p. 20.)

6. a. PALS completed its assessment on November 7, 2016. In its report, PALS set forth the following goals: (1) Claimant will make his own decisions and effectively communicate his wants and needs with others (Autonomy/Choice); (2) Claimant will advocate for himself in regards to personal choices (Self-advocacy); (3)

Claimant will be prompted to participate in the organization of his home and daily life (Domestic Skills); (4) Claimant, with support, will shower and practice necessary personal hygiene on a daily basis (Self-help); (5) Claimant, with support, will participate in managing his personal finances (Personal Finances); (6) With support, Claimant will establish and maintain good standing with all tenant/Housing Authority related correspondence (Housing); (7) Claimant will achieve and maintain optimal health (Physical/Mental/Dental Health); (8) With assistance, Claimant will participate to the best of his ability in all aspects of acquiring and advocating for generic services (Generic Resources); (9) With assistance, Claimant will establish and maintain relationships that are mutually beneficial (Relationships/Recreation/Leisure); (10) With assistance, Claimant will learn how to maximize his personal, home, and community safety to ensure his wellbeing (Safety); (11) Claimant will enroll and attend courses of his desire as he progresses with his education and to gain employment as it relates to his trade and education (Career/Employment); and (12) Claimant will maintain his driving privileges (Mobility). PALS recommended 190 hours of service per month to assist Claimant to work toward meeting these goals.

b. In subsequent communications with Service Agency, Will Rivas (Rivas), PALS Case Manager, estimated that the following number of service hours will be needed to meet the specific goals: 44 hours per month to work on the Domestic Skills goal, 15.15 per month to work on the Self-help goal, 15.15 hours per month to work on the Personal Finances goal, 4 hours per month to work on the Housing goal, 40 hours per month to work on the Physical/Mental Health goal, 8 hours per month to work on the Generic Resources goal, 36 hours per month to work on the Relationships/Community Integration goal, 2 hours per month to work on the Safety goal, 21.6 hours per month to work on the Education/Career/Employment goal, and 5 hours per month to work on the Mobility goal. The Autonomy/Choice and Self-advocacy goals are part of all activities and do not require a specific dedicated number of hours.

7. Rivas drafted the PALS assessment. In the report and in his testimony, Rivas explained the services PALS would provide to help Claimant achieve his goals. For example, with respect to the Domestic Skills goal, PALS proposes to assist Claimant in creating weekly inventories of depleted household items, to assist Claimant in planning

meals and determining the necessary ingredients for shopping trips, to assist Claimant in trying out different meals in choosing healthier options, to review inventory lists while shopping with Claimant, and to redirect Claimant toward appropriate shopping choices. In the Self-help goal, PALS staff will assist Claimant in showering and in maintaining a personal hygiene routine, will remind or prompt Claimant to shower and/or complete personal hygiene tasks daily, and will model various personal hygiene routines. In the Relationships/Recreation/Leisure goal, PALS staff will assist Claimant to plan and organize new social outings, will transport Claimant to recreational activities, will facilitate positive interactions with others in the community, and will assist Claimant by prompting and modeling appropriate behavior. All other goals similarly refer to assisting Claimant with various tasks to meet his goals.

8. Claimant's mother is his only care giver, as his father cannot provide care due to his health conditions. She is 73 years old and in declining health. She would like Regional Center and PALS to provide greater assistance in meeting Claimant's needs.

9. Service Agency deemed the proposed number of hours excessive, and concluded that 100 hours per month would be sufficient to meet existing IPP goals. Claimant's Service Coordinator, Nancy Godoy (Godoy), testified about the basis for Service Agency's conclusion. Godoy testified that ILS services are primarily intended to teach skills to consumers, and she was concerned that PALS' recommendation had too many "supervision" hours. If Claimant requires additional supervision or assistance to perform certain tasks, then other programs, such as the services of a personal assistant, may be a better solution. Moreover, Godoy stated, some of the goals, such as the Housing and Mobility ones, are not included in the IPP, and are not pertinent to Claimant who lives with his parents and does not actually drive. Godoy testified that the 100 hours were generally estimated on the basis of the IPP goals, and that about a third of the total would relate to the goal of helping Claimant deal with his medical needs, such as going to the doctors, interacting with them, and learning to manage his medications.

10. Godoy and Claimant's mother discussed entering into an agreement for the funding of 100 hours for three months and for reassessment after three months, but no agreement was ever finalized.

11. On December 19, 2016, Service Agency issued a Notice of Proposed Action memorializing Service Agency's offer of 100 hours of ILS per month. On December 31, 2016, Claimant's attorney filed a Fair Hearing Request, which was received by Service Agency on January 3, 2017.

## LEGAL CONCLUSIONS

1. In enacting the Lanterman Developmental Disabilities Services Act (Lanterman Act), Welfare and Institutions Code<sup>2</sup> section 4500 et seq., 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. (§ 4501.) The Lanterman Act gives regional centers, such as Service Agency, a critical role in the coordination and delivery of services and supports for persons with disabilities. (§ 4620 et seq.) Thus, regional centers are responsible for developing and implementing IPP's, for taking into account consumer needs and preferences, and for ensuring service cost-effectiveness. (§§ 4646, 4646.5, 4647, and 4648.)

2. Section 4512, subdivision (b), defines the services and supports that may be funded, and the process through which such are identified, namely, the IPP process, a collaborative process involving consumer and service agency representatives. "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 plan participants, the effectiveness of each option in meeting the goals in the individual program plan, and the cost-effectiveness of each option. ..." (*Id.*)

3. Section 4688.05 provides: "Regional centers shall provide independent living skills services to an adult consumer, consistent with his or her individual program plan, that provide the consumer with functional skills training that enables him or her to

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<sup>2</sup> All further statutory references are to the Welfare and Institutions Code.

acquire or maintain skills to live independently in his or her own home, or to achieve greater independence while living in the home of a parent, family member, or other person.”

4. The Department of Developmental Services has enacted regulations to govern provision of ILS services. As defined in California Code of Regulations (CCR), title 17, section 54302, subdivision (a)(35): “ ‘Independent Living Program’ means a community-based day program that provides to adult consumers the functional skills training necessary to secure a self-sustaining, independent living situation in the community and/or may provide the support necessary to maintain those skills. Independent living programs focus on functional skills training for adult consumers who generally have acquired basic self-help skills and who, because of their physical disabilities, do not possess basic self-help skills, but who employ and supervise aides to assist them in meeting their personal needs.”

5. As is clear from the plain language of section 4688.05 and CCR, title 17, section 54302, the purpose of ILS services is to provide functional skill training to developmentally disabled individuals and to provide the support necessary to maintain the skills. As set forth in factual finding numbers 4 and 5, Claimant’s IPP contains ILS goals, and Service Agency has agreed to fund ILS services. The PALS assessment properly focuses on providing Claimant with skills to help him live independently and sets forth goals intended to meet his individual needs. The assessment contains requisite training components, but it also proposes providing substantial assistance for Claimant to perform many specific activities. While support in maintaining acquired skills is contemplated by law, the level of assistance recommended in the assessment was not shown necessary to meet the Claimant’s IPP goals.

6. Taking into account that the Housing and Mobility goals as set forth in the PALS assessment are not presently part of Claimant’s IPP or his demonstrated needs, and that the assessment proposes more assistance, or supervision, hours that is contemplated by section 4688.05 and CCR, title 17, section 54302 for ILS services, Service Agency’s conclusion that 100 hours are presently sufficient to meet Claimant’s needs as set forth in the IPP is reasonable.

7. Accordingly, by reason of factual finding numbers 1 through 11 and legal

conclusion numbers 1 through 6, Service Agency need not fund 190 hours of ILS services at the present time. Funding of 100 hours per month is appropriate to meet Claimant's needs. However, since Claimant has not previously received ILS services, review of his continued level of support in the near future is appropriate. Moreover, in light of testimony received at the hearing about Claimant's needs, it may be appropriate for the parties to explore if Claimant needs other services, such as personal assistant services or social skills training or support, in addition to or lieu of ILS services.

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## ORDER

1. Claimant's appeal is denied and Service Agency need not fund 190 hours of ILS services.

2. Service Agency shall fund 100 hours of ILS services, and may assess the level of ILS support after six months of funding the services.

Dated:

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Samuel D. Reyes  
Administrative Law Judge  
Office of Administrative Hearings

## NOTICE

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