

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

CLAIMANT,

vs.

GOLDEN GATE REGIONAL CENTER,

Service Agency.

OAH No. 2017030823

DECISION

Administrative Law Judge Juliet E. Cox, State of California, Office of Administrative Hearings, heard this matter on April 17, 2017, in San Mateo, California.

Lisa Rosene, Director of Regional Center Services, represented service agency Golden Gate Regional Center (GGRC).

Claimant's mother, who is claimant's conservator, appeared at the hearing on claimant's behalf. Claimant was not present.

The matter was submitted on April 17, 2017.

ISSUES

1. Did GGRC respond adequately to an order made December 16, 2016, in connection with a previous appeal by claimant of certain GGRC actions?
2. Did GGRC respond adequately to service requests claimant made at the February 2017 annual review of her Individual Program Plan (IPP)?

FACTUAL FINDINGS

1. Claimant is an unmarried adult. Because she is eligible for services under the Lanterman Developmental Disabilities Services Act (the Lanterman Act), she receives a variety of services through GGRC. Claimant is conserved and her mother is her conservator.

2. Claimant filed the hearing request initiating this matter in early March 2017, and amended it at least once. Claimant's hearing request, as amended, lists 22 "issues," but does not attach or reference any formal Notice of Proposed Action from GGRC.

DECEMBER 2016 ORDER AND GGRC'S FOLLOW-UP ACTIONS

3. On December 16, 2016, Administrative Law Judge Regina Brown issued a decision on an appeal by claimant regarding decisions GGRC had made in connection with an annual review in February 2016 of claimant's Individual Program Plan (IPP). This decision included the following statements relevant to this appeal:

- a. The decision directed GGRC to arrange a vendor to provide personal aide services for claimant;
- b. The decision directed GGRC to investigate whether an organization named Academic Trainers could become a GGRC vendor providing adult education services for claimant;
- c. The decision directed GGRC to assist claimant in determining whether she may receive employment-related services through the California Department of Rehabilitation (DOR);
- d. The decision directed GGRC to arrange for claimant's mother to serve as claimant's transportation vendor, and to determine what transportation services GGRC would reimburse for claimant; and

e. The decision directed GGRC and claimant's mother to convene a meeting within 30 days to discuss these topics.

4. Claimant's "Issue #1" questions whether GGRC complied with the direction described in Finding 3.e. The evidence¹ established that GGRC and claimant's mother held a meeting by telephone on January 4, 2017, at which they discussed the topics identified above in Findings 3.a through 3.d. The meeting occurred by telephone because claimant's mother declined to attend the meeting in person.

5. Claimant's "Issue #2" questions whether GGRC has complied with the direction described in Finding 3.a. The evidence established that GGRC and claimant's mother agreed following their January 2017 meeting that claimant's mother would serve as claimant's personal aide vendor, through GGRC's "parent-coordinated personal assistance" program. This funding mechanism allows claimant's mother to select and pay personal aides, and to receive reimbursement from GGRC for her expenses in doing so. Claimant's mother has completed the documentation necessary to become claimant's personal aide vendor, but has not yet confirmed with GGRC the schedule for the aide(s) she will hire.

6. Claimant's "Issue #3" questions whether GGRC has complied with the direction described in Finding 3.c. The evidence established that GGRC staff members have assisted claimant in preparing an application to DOR for employment-related services and have communicated with DOR staff members regarding claimant. DOR's last communication with GGRC regarding claimant informed GGRC that DOR had not received any application from claimant.

¹ The evidence in this matter consisted solely of testimony by GGRC staff members and of documents included in GGRC's files or exchanged between GGRC staff members and claimant's mother. Claimant's mother did not testify.

7. Claimant's "Issue #4" questions whether GGRC has complied with the direction described in Finding 3.d. The evidence established that GGRC has prepared an addendum to claimant's IPP describing a plan to improve claimant's access to several transportation modes, and has calculated the mileage to transport claimant between her home and various therapeutic and social activities. The evidence also established that claimant's mother has not completed documentation necessary to become claimant's transportation vendor.

8. Claimant's "Issue #5" questions whether GGRC has complied with the direction described in Finding 3.b. The evidence established that GGRC staff members communicated with representatives of the Academic Trainers organization regarding services for claimant, but that the Academic Trainers organization declined to become a service vendor for GGRC.

9. Claimant's "Issue 21" questions whether GGRC is "in contempt" of the December 16, 2016, decision. The evidence established no failure by GGRC to take any steps that decision ordered.

FEBRUARY 2017 ANNUAL IPP REVIEW

10. GGRC conducted an annual review of claimant's IPP on February 15, 2017. In preparation for that review, claimant's mother sent GGRC a list of requests and objectives that she wanted the IPP to address.

11. Claimant's "Issue #6" and "Issue #7" question whether GGRC has "failed to include" claimant's requests and objectives in claimant's IPP. The evidence established that GGRC has included the list claimant's mother sent to GGRC in its file regarding claimant's IPP, and that GGRC staff members discussed these issues with claimant's mother during the annual IPP review in February 2017.

Claimant alleges that GGRC has “failed to provide a Notice of action” for its refusal to acknowledge claimant’s requests and objectives. The evidence did not establish that GGRC has refused to acknowledge claimant’s requests and objectives.

12. Claimant’s “Issue #8” questions whether GGRC has “failed to fund a personal Assistant.” As described in Finding 5, GGRC already had agreed before the February 2017 annual review to provide funding for a personal aide for claimant; and claimant’s mother had agreed in principle to be the vendor for these services. At the time of the annual IPP review, however, claimant’s mother had not yet completed the documentation necessary to become claimant’s personal aide vendor.

Claimant alleges that GGRC has “failed to provide a Notice of action” for its decision not to fund a personal assistant. The evidence did not establish that GGRC has declined claimant’s request for a personal assistant.

13. Claimant’s “Issue #9,” “Issue #10,” and “Issue #11” question whether GGRC has made and implemented adequate plans for transportation services to claimant. As described in Finding 7, GGRC has prepared transportation plans for claimant, and has agreed in principle to pay claimant’s mother to serve as claimant’s primary transportation provider if and when claimant’s mother becomes a GGRC transportation vendor.

Claimant alleges that GGRC has “failed to provide a Notice of action” for its inadequate transportation plans. The evidence did not establish that GGRC has declined to make or implement adequate transportation plans for claimant.

14. Claimant’s “Issue #12” questions whether GGRC has “failed to locate and provide a Job Coach.” As described in Finding 6, GGRC staff members have assisted claimant in her efforts to obtain employment-related services from DOR.

Claimant alleges that GGRC has “failed to provide an appropriate Notice of action for this request.” On February 22, 2017, GGRC sent a Notice of Proposed Action to

claimant stating that GGRC would not provide services duplicating those available through DOR.

15. Claimant's "Issue #13" and "Issue #15" question whether GGRC has failed to provide services to support claimant in her social life. As described in Finding 5, GGRC has agreed to fund a personal aide for claimant. This aide's duties will include assisting claimant in various social and recreational activities.

Claimant alleges that GGRC has "failed to provide an appropriate Notice of action" for these requests. On February 22, 2017, GGRC sent Notices of Proposed Action to claimant declining to fund specific social and recreational activities.

16. Claimant's "Issue #14" question whether GGRC has failed to provide services to support claimant's physical health. As described in Finding 5, GGRC has agreed to fund a personal aide for claimant. This aide's duties will include assisting claimant in various fitness activities.

Claimant alleges that GGRC has "failed to provide an appropriate Notice of action" for this request. On February 22, 2017, GGRC sent Notices of Proposed Action to claimant declining to fund specific sports and fitness activities.

17. Claimant's "Issue #16" questions whether GGRC has "failed to locate one hour per week of safety swimming classes" for claimant, and has "failed to provide an appropriate Notice of action" for this request. On February 22, 2017, GGRC sent a Notice of Proposed Action to claimant declining to fund swimming lessons.

18. Claimant's "Issue #17" questions whether GGRC has "failed to ask DDS to provide the services and supports directly if GGRC cannot find a Provider," and has "failed to provide a Notice of action for this request." The evidence did not establish that GGRC has approved any service for claimant for which GGRC can find no vendor.

19. Claimant's "Issue #18" questions whether GGRC has "failed to Email information on how to apply for Self-Determination Program." The evidence established

that no such program presently is available. The evidence also established that GGRC has explained to claimant's mother on multiple occasions the process the Department of Developmental Services (DDS) has undertaken to develop this program, and the likely steps for enrolling in it if and when the program begins.

Claimant alleges that GGRC has "failed to provide a Notice of action for this request." The evidence did not establish that GGRC has declined to inform claimant about the Self-Determination Program.

20. Claimant's "Issue #19" questions whether GGRC "failed to notify" DDS when GGRC has denied services to claimant, and has "failed to provide a Notice of action for this request." The evidence established that GGRC has notified DDS on every occasion when DDS has denied a service that claimant has requested.

21. Claimant's "Issue #20" questions whether GGRC "failed to schedule a phone conference meeting within 15 days to discuss any disagreement(s)" regarding the February 2017 annual update to claimant's IPP. The evidence established that GGRC staff members are and always have been available for telephone conferences with claimant's mother, but that claimant's mother requested no such conference after the February 15, 2017, conference to discuss claimant's annual IPP review.

Claimant alleges that GGRC has "failed to provide a Notice of action for this request." The evidence did not establish that GGRC ever has declined to confer with claimant's mother regarding claimant.

OTHER MATTERS

22. Claimant's "Issue #22" questions whether GGRC has sent claimant "misleading and inappropriate Notices of Action." No documents titled "Notice of Action" were in evidence. Several documents titled "Notice of Proposed Action" were in evidence, as described in Findings 14, 15, 16, and 17. Each of those documents states the specific service(s) GGRC has declined and gives reasons for GGRC's decision.

23. As described in Finding 2, claimant's request for hearing in this matter referenced no specific GGRC Notice of Proposed Action. At the same time, claimant's hearing request stated for the "issues" described in Findings 14 through 17 that GGRC had failed to provide an "appropriate" notice, while stating for the "issues" described in Findings 11 through 13 and 18 through 21 that GGRC had failed to provide any notice.

24. Claimant moved at the hearing to construe the references to "appropriate" notices in her "Issue #12," "Issue #13," "Issue #14," "Issue #15," and "Issue #16" as requests for review of the service denial decisions memorialized in the Notices of Proposed Action described above in Findings 14, 15, 16, and 17. GGRC opposed this motion and it was denied.

LEGAL CONCLUSIONS

1. The Lanterman Act permits claimant to request a hearing to review GGRC's service decisions. (Welf & Inst. Code, § 4710 et seq.) If GGRC does not appeal the decision following such a hearing, it must follow the decision. (*Id.*, § 4712.5.) Findings 3 through 9 establish no violation by GGRC of its responsibility to follow the December 16, 2016, order by Administrative Law Judge Regina Brown.

2. The Lanterman Act requires GGRC to consider claimant's personal needs and goals in developing her IPP. (Welf & Inst. Code, § 4646.) Findings 10 through 21 establish no violation by GGRC of its responsibility to consider claimant's personal needs and goals.

3. The Lanterman Act requires GGRC to provide a formal, specific notice to claimant if GGRC decides "to deny the initiation of a service or support requested for inclusion" in claimant's IPP. (Welf & Inst. Code, § 4710, subd. (b).) Findings 11 through 22 establish no violation by GGRC of its responsibility to provide notice upon denying requests to add services to claimant's IPP.

ORDER

Claimant's appeal is denied.

DATED: April 28, 2017

_____/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.