

BEFORE THE  
OFFICE OF ADMINISTRATIVE HEARINGS  
STATE OF CALIFORNIA

In the Matter of:

CLAIMANT,

and

INLAND REGIONAL CENTER,

Service Agency.

OAH No. 2017031457

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DECISION

Kimberly J. Belvedere, Administrative Law Judge, Office of Administrative Hearings, State of California, heard this matter in San Bernardino, California, on June 13, 2017.

Aaron Abramowitz, Attorney, Enright & Ocheltree, LLP, represented Inland Regional Center (IRC).

Wendy Dumlao, Attorney at Law, represented claimant, who was not present.

The matter was submitted on June 13, 2017.

ISSUES

Should IRC fund claimant's request for out-of-state residential placement due to claimant's unique needs resulting from a medical condition?

## FACTUAL FINDINGS

### BACKGROUND

1. Claimant is a 14-year-old girl who is eligible for regional center services based on a diagnosis of cerebral palsy. Claimant currently resides with her parents and siblings at the family residence. Claimant's services include 90 hours per month of respite from Cambrian Homecare, wrap around services provided by Uplift Family Services, and 70 hours per month of Specialized Individual Training (SIT) from California PsychCare to address extreme behaviors. Claimant's parents have not applied for In Home Supportive Services (IHSS), a generic resource, as of the date of the hearing.

2. According to claimant's mother, claimant was first diagnosed with Prader-Willi Syndrome (PWS) when she was 3 ½ years old. PWS causes poor muscle tone, behavioral problems, and a constant feeling of hunger. In August 2016, claimant's parents noticed her aggressive behaviors started to worsen. According to claimant's Individualized Program Plan (IPP), claimant's parents admitted claimant to the Children's Institute for Students with Prader-Willi Syndrome/Behavior Disorders (the Institute) in Pennsylvania on November 21, 2016. Claimant's parents paid for claimant's residential program at the Institute. Claimant returned home on December 21, 2016, because claimant's insurance would not pay for claimant's residential treatment at the Institute and claimant's parents could no longer afford to pay out-of-pocket to keep her there.

3. In January 2017, claimant's parents requested residential placement for claimant in IRC's catchment area. IRC requested, and received, referrals for the appropriate placement. However, none of the vendors were interested in placing claimant in their homes. IRC also conducted a statewide search of possible residential placement facilities. Like those in IRC's catchment area, no residential facilities in California indicated they would take claimant. Claimant therefore remained in the family home with the above-referenced services available to her.

4. Claimant's March 9, 2017, IPP, states the following regarding claimant's self-care and increasingly difficult behaviors in 2016, which led to claimant's parents asking for residential placement:

Parents state that [claimant] is able to use both her hands and fingers to manipulate objects. She can walk at least 20 feet with good balance. She does take medication in which she requires assistance from her parents to take. [Claimant] is on a special diet due to her diagnosis of PWS. She's able to eat with at least one utensil without spillage. [Claimant] is toilet and habit trained, however, she does require some assistance with cleaning and changing her clothes due to incontinence . . . . [Claimant] doesn't have control of her bowel or bladder. Wetting or soiling occurs 100 percent of the time at night. [Claimant] requires frequent reminders by her parents to use the restroom before bedtime. [Claimant] performs all of her personal care needs but requires reminders and assistance from her parents to complete. [Claimant] needs assistance with showering to ensure that it is done correctly and thoroughly especially when she has accidents in regards to her bowel movements. She can dress herself independently with reminders and assistance from mom to complete. [Claimant] needs assistance with buttons, zippers, and can tie her shoes.

[¶] . . . [¶]

Parents state that [claimant] does display some disruptive, aggressive, self injurious and destructive behaviors. [Claimant] will exhibit melt down when she doesn't get her way. This behavior occurs almost everyday. In May of 2016 [claimant] kicked the front of the windshield of the car window causing it to shatter because she didn't want to get out of the car to go to school. Mom also stated that [claimant] dislocated her knee as a result of that. In July of 2016 [claimant] refused to leave the community pool area while at a friend's house and just sat in the hot sun for 2 hours. [Claimant] also did the same thing later than month while at a friend's house. [Claimant] was nonresponsive and just picked her fingers [sic] until it bled. She also continued to sit in the hot sun. Towards the end of the month in July while at her grandmother's house, [claimant] started picking at a scab on her knee because she was upset. When she was asked to stop and clean up. [Claimant] became more frustrated and started throwing items and breaking things in the hallway then she went and stayed in the restroom for about 90 minutes. After finally getting [claimant] in the car mom had to pull over and called 911. In August of 2016 after knee surgery. [Claimant] got upset and went into parents room and started destroying property in the bedroom also swinging and to hit mom. [Claimant] was kicking and hitting, Mom had to restrain [claimant] and called 911. [Claimant] was transported to Rancho Springs and released later that

evening. On August 15, 2016, [claimant] was again upset after being picked up from a friend's house. [Claimant] was unresponsive to mom and on the way home. Once they arrived home [claimant] refused to get out of the car. After finally getting inside, [claimant] became more agitated and aggressive she ignored her mom's request. [Claimant] then went into the bedroom and started to get violent and destroy property. She broke pictures and frames tried to swipe herself on the forearm with a piece of broken glass. Dad able to get the piece of glass and called 911. [Claimant] was 5150. Later than month after returning Home. [Claimant] was again upset because she was told No she couldn't do want [sic] she wanted. She again started to bang her wheelchair against the wall repeatedly. Parents and Neighbor had to restrain [claimant.] 911 was called and the sheriffs advised Mom to transfer [claimant] to Loma Linda ER. [Claimant] had to be restrained the entire time. Mom states that Running away or wondering occurs at least once a month but not everyday. [Claimant] just recently left the family home during a meeting with the behavior specialist. [Claimant] left in her pajamas barefoot with no shoes. [Claimant] was shadowed by two adults for about 30 minutes as she walked through the neighborhood. This incident occurred in the morning while other kids were being drop off at school nearby. Mom stated [claimant] was escaping the pressure of going to school. That Emotional outburst occur

at least once a week and typically require intervention from both parents. [Claimant] gets very frustrated and angry when told “No” or when she doesn’t get her way. Mom will try to re-direct and will not tell [claimant] “No” to try and keep [claimant] calm. These are some of the incidents that were reported to CSC by Mom during a home visit in August 2016. . . . [Grammatical and punctuation errors in original].

5. The IPP also stated claimant’s parents requested that IRC fund claimant’s out-of-state placement with the Institute because of her increasingly difficult behavior and need to be in a facility with people who understand and can attend to patients with PWS.

6. In a November 2017 letter concerning claimant, Sima Suler, M.D., a doctor at the Institute, wrote:

[Claimant] is currently a patient in our rehabilitation program for persons with PWS. PWS is a very complex disability which affects **all** aspects of an individual’s life. Individuals with PWS face significant lifelong challenges as a result of a defect on the 15<sup>th</sup> chromosome. The four most outstanding features of PWS are an **insatiable appetite** (related to a defect of the hypothalamus) **hypotonia**, behavior problems and cognitive limitations. There is no cure for PWS. It is a life-long, life threatening syndrome. Due to a variety of problems related to an insatiable appetite, it is common for a person with PWS to face enormous challenges in many environments, including home, school, work and community.

[Claimant] was admitted to the Center for PWS at The Children's Institute of Pittsburgh on November 21, 2016. She is participating in a unique comprehensive rehabilitation program that includes physical therapy, occupational therapy, speech, nutrition, and psychology. Additionally, [Claimant] is followed by an attending physician and psychiatrist to address her medical and mental health needs. Her diagnoses on admission included: PWS, Anxiety D/O, [and] Bipolar Depression. Medically, she has a history of chronic constipation, scoliosis, and skin picking, hyperlipidemia, hypothyroidism and obesity. She had an ankle fracture in June 2016 & knee surgery in August 2016 and behaviors have increased since that time. She has become increasingly verbally and physically aggressive towards her parents and has destroyed property. The lack of services and structured environment, has led to the development of ongoing behavioral health issues and multiple hospital admissions.<sup>1</sup>

[¶] . . . [¶]

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<sup>1</sup> Nowhere in the letter from the Institute did Dr. Suler mention claimant's diagnosis of cerebral palsy. Given that Dr. Suler was very specific regarding claimant's past diagnoses and current behavioral problems, it appears she attributed claimant's behavioral issues to PWS and her mental health diagnoses and not to her cerebral palsy.

At a **minimum**, [claimant] needs in-home support in order for her to be supervised and safe in her home environment. . . [Emphasis in original].

7. On March 20, 2017, IRC served claimant with a notice of proposed action denying claimant's request for IRC to fund her out-of-state residential placement request, noting the following:

Your request for out of state placement has been denied because there are other less restrictive options available and [claimant] does not meet the criteria for admission to an out-of-state residential facility at this time, which is outlined below. In addition, IRC can work with you to explore other residential facilities in the area. IRC can also work with you to further identify the services and supports that would be needed to maintain [claimant] in the family home. As outlined below, IRC must first establish that there are no other less restrictive options available statewide and that a statewide search has been completed using the Department of Developmental Services' Statewide Specialized Resource Service (SSRS). If a consumer meets the statutory criteria for out-of-state placement, the placement is temporary and there must be a comprehensive assessment and plan for transition back to a community setting. There are specified circumstances for a temporary admission due to emergencies, but that does not apply in this case.



8. On March 29, 2017, claimant's mother filed a fair hearing request on claimant's behalf, objecting to IRC's decision not to fund out-of-state residential placement at the Institute "despite no other viable residential options." Thus, the issue in this hearing is whether IRC should fund claimant's out-of-state residential placement at the Institute.<sup>2</sup>

#### EVIDENCE PRESENTED BY IRC

9. Claimant's Consumer Service Coordinator Charles Monroe testified at the hearing. Mr. Monroe has been claimant's Consumer Services Coordinator for three years. According to Mr. Monroe, claimant is not currently utilizing the respite or Uplift services.

Mr. Monroe, in referring to an April 19, 2017, behavioral observation that took place at claimant's school, stated that claimant's behavior at home appears to be different than claimant's behavior at school. According to a report documenting observations at the school, claimant did not display the type of behaviors detailed in her IPP, but rather, claimant appeared to be engaged as she asked questions of the teacher and participated in class. Claimant has a 1:1 aide to assist her. When Mr. Monroe and the other observers began talking to the aide, claimant got up and walked out of the class even though the class was not over. The observers hypothesized that it was because claimant did not like them talking to her 1:1 aide.

Claimant's school behavior report also documented the following:

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<sup>2</sup> Claimant's mother also stated in the fair hearing request that there were "factual errors" in the Notice of Proposed Action; claimant's IPP was not accurate; claimant's IPP needed to be amended; and IRC needed to complete claimant's Medicaid waiver. At the hearing, claimant's attorney stated that these issues had all been resolved.

Claimant's behaviors create an environment not conducive to learning because it disrupts general classroom functioning, instructional time is lost and task completion is minimized; claimant's behaviors prohibit her from forming satisfactory relationships with peers and adults; claimant tries to avoid work that is perceived as being difficult and avoid things she does not want to do; claimant tries to escape from situations she perceives as undesirable or when she wants to exert control; and claimant seeks to gain attention from adults in order to give herself a sense of power and control. Although no aggressive behaviors were noted during the observation, claimant's school behavior report also indicated claimant displays oppositional defiance and argumentative behaviors, will physically hit others, kick tables, shove chairs, write on desks, and rip up papers, among other things.

Mr. Monroe testified and authenticated supporting documents, showing IRC has sought residential care for claimant both in IRC's catchment area as well as using a statewide search. His testimony and the documents demonstrated that IRC met its obligation under Welfare and Institutions Code section 4519, respecting a search for residential facilities.

Mr. Monroe said that no facilities have offered to place claimant, although he does not know the reason for the denials.

Mr. Monroe added that IRC is willing to offer Applied Behavior Analysis services (ABA), which claimant does not currently receive, and increase claimant's hours with California PsychCare in order to maintain claimant in her home to address her behaviors. California PsychCare can also go out into the community with claimant. He said that

claimant and her parents might also benefit from In-Home-Supportive services (IHSS), a generic resource, if she qualified for IHSS.

10. Amy Clark, the Program Manager who supervises Mr. Monroe, also testified. According to Ms. Clark, the goal of regional centers pursuant to the Lanterman Act is to keep minors in the family home. Nonetheless, IRC did conduct searches for residential facilities in IRC's claimant's catchment area and statewide. Like Mr. Monroe, Ms. Clark stated that no residential facilities have offered to place claimant.

Ms. Clark testified she believes claimant would be a candidate for protective supervision IHSS now that claimant has a Medi-Cal waiver. Ms. Monroe also testified that if claimant was utilizing all the services available from IRC and IHSS, in addition to the ABA that IRC is willing to offer, she would have approximately 24 hours of coverage per day including her time at school and while asleep.<sup>3</sup> Ms. Clark explained that, if need be, IRC could also increase claimant's respite hours and SIT hours.

#### EVIDENCE PRESENTED BY CLAIMANT

11. Amy McTighe, Ph.D., testified concerning the Institute and claimant's PWS diagnosis. Dr. McTighe holds a Ph.D. in Special Education, a Master of Arts degree in Education, and a Bachelor of Arts in Elementary and Special Education. Dr. McTighe has presented papers and research to colleagues at national conferences, specifically

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<sup>3</sup> Ms. Clark's assumptions are based on assuming claimant sleeps eight hours, attends six hours of school five days per week, eight hours per day of California PsychCare, Uplift Wrap Around Services five hours per week, ABA two hours per day, and respite at 30 hours per month (which could be increased). Utilizing these figures and assuming a 31 day month, Ms. Clark said the offered coverage would provide 727 hours per month, leaving only 17 hours of family responsibility. These figures do not include IHSS, which may be available, as well.

dealing with PWS. Dr. McTighe has worked at the Institute for five years as the Program Manager and Educational Coordinator. Dr. McTighe therefore qualifies as an expert on PWS.

Dr. McTighe explained that PWS is a deletion of the 15<sup>th</sup> chromosome that causes a patient to constantly feel hungry. She said many PWS patients also have severe aggressive and behavioral problems that result from the PWS diagnosis. Further, the same defect in the hypothalamus that causes the insatiable appetite also is responsible for the problematic behavior. As a result, there is no cure and the behaviors will not change. The main goal of the Institute, therefore, is to manage the behaviors, medications, and diet.

Dr. McTighe met and observed claimant during her stay at the Institute. Dr. McTighe felt claimant did "excellent" while at the Institute and responded positively to the structured and predictable routine. She said claimant did not experience any aggressive episodes and did not need to use restraints or seclusion while at the Institute.

At discharge, Dr. McTighe recommended claimant be placed in a residential placement in a PWS-specific facility because what claimant's parents were reporting about her behaviors was markedly different than how claimant acted while at the Institute. However, she is not aware of any PWS-specific residential facilities in California.

Dr. McTighe is familiar with ABA services. She does not believe the ABA services would be helpful because ABA is focused on rewarding a behavior so that meaningful and positive change can occur. People with PWS, however, "do not have the genetic makeup to eliminate behaviors." To date, they have not worked with a PWS resident who has been successful with ABA. Dr. McTighe also stated additional wrap around services or respite will not make claimant "more successful" in the community for the same reason. She explained that, regardless of what training or services claimant

receives, the behaviors will always be there. However, an appropriate environment that is structured can help decrease the aggressive behaviors. To that end, the long term goal at the Institute is not independence; rather it is to maximize claimant's quality of life. Dr. McTighe does not feel claimant would be successful with any of the services being provided or offered by IRC because claimant needs a structured and predictable routine.

12. Claimant's mother testified at the hearing. She explained that claimant is constantly hungry, has high anxiety, bowel problems, chronic constipation, bedwetting issues, and is emotionally unstable. Claimant's PWS has caused her behaviors to "explode" in the past year. Claimant has become controlling, oppositional, and argumentative. When claimant's behaviors explode, claimant's mother said sometimes it is better to just let her work through it; otherwise, she may become more enraged. Claimant has broken things, kicked things, slammed doors, broken furniture, and looked for anything she can break.

Claimant's mother said claimant did receive some behavioral services in 2013 through a program called Cares, which has ABA-like components. Claimant is not currently receiving ABA. Claimant has also seen psychiatrists and psychologists, and claimant's parents have met with other parents and groups designed to help people deal with a loved one diagnosed with PWS. Nothing they have done has helped reduce claimant's behaviors.

In the past year, claimant has been hospitalized 12 times for psychiatric problems. One time the meltdown started at school; other times it was at home. On one occasion, the meltdown leading to claimant's hospitalization occurred while the case worker administering SIT services was present.

Claimant's mother said she started asking IRC for help in 2016. She feels claimant needs a PWS-specific placement because her "number one issue is food security . . . and

a restricted calorie diet . . . .” Claimant has complained about the Uplift workers and even school personnel that have provided services. Claimant wants to be independent and does not like to be controlled.

Claimant’s mother said they have been trying to utilize more of the SIT services, but that they have not used the respite because they did not feel comfortable leaving the house with claimant’s PWS diagnosis. She also has not used Uplift services because it duplicates services claimant receives from the school district. Claimant’s mother also does not feel it would benefit claimant to have more people from different services coming into the home because that creates more inconsistency and what claimant needs is consistency.

Claimant’s mother stated she does not want claimant to be sent away but she knows that the structure and environment the Institute can offer far outweighs anything she and claimant’s father can offer her at home. While claimant is at home, she just “gets by.” When claimant is at the Institute, she thrives because she is with other children just like her. Claimant’s mother feels the Institute would be a life-saving situation because she and claimant’s father simply cannot provide what claimant needs to be safe and healthy.

13. Claimant’s father testified about some of the incidents where claimant displayed aggressive and self-injurious behavior. He supported everything claimant’s mother said. Claimant’s father was emotional at times, and conveyed the heartbreak he and his family are facing as a result of having claimant taken away countless times for psychiatric holds.

## LEGAL CONCLUSIONS

### BURDEN OF PROOF

1. In a proceeding to determine whether an individual is eligible for services, the burden of proof is on the claimant to establish by a preponderance of the evidence that IRC should fund the requested service. (Evid. Code, §§ 115, 500; *McCoy v. Bd. of Retirement* (1986) 183 Cal.App.3d 1044, 1051-1052.)

### THE LANTERMAN ACT

2. The Legislature enacted a comprehensive statutory scheme known as the Lanterman Developmental Disabilities Services Act (Welf. & Inst. Code, § 4500 et seq.) to provide a pattern of facilities and services sufficiently complete to meet the needs of each person with developmental disabilities, regardless of age or degree of handicap, and at each stage of life. The purpose of the statutory scheme is twofold: To prevent or minimize the institutionalization of developmentally disabled persons and their dislocation from family and community, and to enable them to approximate the pattern of everyday living of nondisabled persons of the same age and to lead more independent and productive lives in the community. (*Assn. for Retarded Citizens v. Dept. of Developmental Services* (1985) 38 Cal.3d 384, 388.)

3. Welfare and Institutions Code section 4501 outlines the state's responsibility for persons with developmental disabilities and the state's duty to establish services for those individuals.

4. The Department of Developmental Services (DDS) is the public agency in California responsible for carrying out the laws related to the care, custody and treatment of individuals with developmental disabilities under the Lanterman Act. (Welf. & Inst. Code, § 4416.) In order to comply with its statutory mandate, DDS contracts with private non-profit community agencies, known as "regional centers," to provide the

developmentally disabled with “access to the services and supports best suited to them throughout their lifetime.” (Welf. & Inst. Code, § 4620.)

5. 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.

6. A regional center’s responsibilities to its consumers are set forth in Welfare and Institutions Code sections 4640-4659.



7. Welfare and Institutions Code, section 4685, subdivision (a), provides that the legislature places a high priority on keeping children with developmental disabilities in their family home.

8. Regarding out-of-state placement, Welfare and Institutions Code section 4519 states:

- (a) The department shall not expend funds, and a regional center shall not expend funds allocated to it by the department, for the purchase of any service outside the state unless the Director of Developmental Services or the director's designee has received, reviewed, and approved a plan for out-of-state service in the client's individual program plan developed pursuant to Sections 4646 to 4648, inclusive. Prior to submitting a request for out-of-state services, the regional center shall conduct a comprehensive assessment and convene an individual program plan meeting to determine the services and supports needed for the consumer to receive services in California and shall request assistance from the department's statewide specialized resource service in identifying options to serve the consumer in California. The request shall include details regarding all options considered and an explanation of why these options cannot meet the consumer's needs. The department shall authorize for no more than six months the purchase of out-of-state services when the director determines the proposed service or an appropriate alternative, as determined by the director, is not available from resources and facilities within the state. Any extension beyond six months shall be based on a new and complete comprehensive assessment of the consumer's needs, review of available options, and determination that the consumer's needs cannot be met in California. An extension shall not exceed six months. For the

purposes of this section, the department shall be considered a service agency under Chapter 7 (commencing with Section 4700).

9. Welfare and Institutions Code section 4646 requires that the Individual Program Plan and the provision of the services and supports be centered on the individual with developmental disabilities and take into account the needs and preferences of the individual and the family. Further, the provisions of services must be effective in meeting the IPP goals, reflect the preferences and choices of the consumer, and reflect the cost-effective use of public resources.

10. Welfare and Institutions Code section 4648 requires regional centers to ensure that services and supports assist individuals with developmental disabilities in achieving the greatest self-sufficiency possible and to secure services and supports that meet the needs of the consumer, as determined by the IPP. This section also requires regional centers to be fiscally responsible.

11. In implementing Individual Program Plans, regional centers are required to first consider services and supports in natural community, home, work, and recreational settings. (Welf. & Inst. Code, § 4648, subd. (a)(2).) Services and supports shall be flexible and individually tailored to the consumer and, where appropriate, his or her family. (*Ibid.*) A regional center may, pursuant to vendorization or a contract, purchase services or supports for a consumer in order to best accomplish all or any part of the Individual Program Plan. (Welf. & Inst. Code, § 4648, subd. (a)(3).)

12. The regional center is also required 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. (Welf. & Inst. Code, § 4646.4.)

13. Welfare and Institutions Code section 4659, subdivision (c), prohibits IRC from purchasing services available from generic resources.

14. IHSS services are a generic resource. (Welfare & Inst. Code, § 4659.)

Regional centers are not permitted to purchase any service that is 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. (*Ibid.*)

#### EVALUATION

15. A preponderance of the evidence did not establish that IRC is authorized to fund claimant's request for out-of-state placement at the Institute.

No documentation provided, and no testimony established, that claimant's behaviors are attributable to her qualifying condition, cerebral palsy. A regional center's responsibility under the Lanterman Act is not to provide services to consumers relating to their medical needs or mental health needs. Rather, regional centers provide diagnoses and assessments of qualifying developmental disabilities, and after a qualifying diagnosis, help plan, access, coordinate and monitor the services and supports needed *because of* those qualifying developmental disabilities. In other words, if claimant's behaviors were a result of her cerebral palsy and she required residential placement because of her cerebral palsy, in light of her medical and mental health needs, specialized placement in a PWS facility might be appropriate. However, in claimant's case, the evidence established that the out-of-state placement being sought is because of claimant's behavioral and eating challenges attributable to her PWS and her mental health diagnoses (bipolar, anxiety, and depression). Indeed, the letter from the Institute mentioned all of these mental health conditions and the severity of claimant's PWS diagnosis – without ever identifying claimant's cerebral palsy as a reason for claimant's behaviors.

Claimant submitted a decision involving a regional center that placed a person with PWS in an out-of-state facility. However, the case is not precedential. Moreover, it is not helpful because in that case the consumer needed residential placement because of his intellectual disability and also happened to have a PWS diagnosis. Therefore, his placement was needed *because of* his qualifying developmental disability, and his PWS diagnosis required a specialized placement. In that situation, specialized placement would be permitted under the Lanterman Act. For the reasons discussed above, the evidence did not establish that is the case here.

Additionally, the Lanterman Act requires a regional center to be cost-effective in its implementation of any services and supports provided. For that reason, out-of-state residential placement is strictly limited. Even where it is permitted, it is only permitted on a temporary basis. Further, there are additional IRC funded resources (ABA, additional SIT, and additional respite hours) as well as generic resources (IHSS) that can be explored to help maintain claimant within her family home.

Claimants' parents are loving parents and clearly want the best for their daughter. Their testimony was concise, heartfelt, and credible. There is no doubt that having claimant in the family home without adequate help is a challenge. However, on this record, IRC cannot be ordered to fund out-of-state placement because the placement is not a cost-effective service or support to alleviate claimant's developmental disability (cerebral palsy); assist in her social, personal, physical, or economic habilitation or rehabilitation; or to help her achieve or maintain an independent, productive, and normal life. Even if it were, there are still IRC resources (ABA, SIT, respite) and generic resources (IHSS) available to address claimant's behavioral needs and need for protective supervision in lieu of residential placement.

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#### ORDER

Claimant's appeal from Inland Regional Center's determination that it will not fund out-of-state placement is denied.

DATED: June 27, 2017

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KIMBERLY J. BELVEDERE

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.**