

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

CLAIMANT,

vs.

ALTA CALIFORNIA REGIONAL CENTER,

Service Agency.

OAH No. 2017070682

DECISION

Administrative Law Judge Coren D. Wong, Office of Administrative Hearings, State of California, heard this matter on November 14, 2017, in Sacramento, California.

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

Claimant was represented by his parents.

Evidence was received, the record was closed, and the matter was submitted for decision on November 14, 2017.

ISSUE

Is ACRC required to reimburse claimant's parents for the cost of the wheelchair lift installed in the 2010 Ford E-Series Cargo E-250 van they purchased on or about June 14, 2017?

FACTUAL FINDINGS

PERTINENT BACKGROUND

1. Claimant is a 42-year-old man initially determined to be eligible for ACRC services based on his diagnosis of intellectual disability, severe. He also has cerebral palsy,¹ a seizure disorder, hypertension, and diabetes. He is able to walk, but does so with an unsteady gait due to arthritis in both legs. While he walks around his home with ease, he generally holds onto someone's arm to prevent himself from falling when walking outside. During extended outings outside the home, he borrows one of his brother's wheelchairs. He has limited speech, but can communicate by pointing to what he wants and needs.

2. Claimant lives with his parents and younger brother, who is also intellectually disabled, in Yolo County, California. He is able to feed himself, but needs someone to cut his food to prevent choking. He is able to use the toilet on his own, but requires help with cleaning himself afterward. He is able to assist with changing his clothes, except his pants and socks. He requires assistance with bathing and brushing his teeth.

3. Claimant enjoys listening, singing, and dancing to music. He favors the "oldies and goodies," and his favorite group is the Bee Gees. He will sometimes watch television with his family, but is not interested in any particular programs. He enjoys spending time and laughing with people.

4. Claimant's most recent Individual Program Plan (IPP) was prepared on May 23, 2017, and was completed after an IPP meeting at his home involving his parents, his

¹ He was later determined to be eligible for ACRC services based also on his diagnosis of cerebral palsy, as explained further below.

service coordinator, and himself. The IPP identifies two goals: 1) continuing to live at home with his family, and 2) maintaining good physical, mental, and dental health.

5. During the IPP meeting, claimant's parents inquired with claimant's service coordinator about programs that provide families financial assistance with purchasing wheelchair accessible vans. The service coordinator agreed to start the process for determining whether ACRC would fund the purchase of a wheelchair lift as durable medical equipment for claimant.

JOURDAN WEITZEL

6. Jourdan Weitzel has been claimant's service coordinator since shortly before his May 23, 2017 IPP meeting. At hearing, she recalled claimant's parents' inquiry about programs that provide families financial assistance with purchasing wheelchair accessible vans, and explained that for reasons which were unknown to her claimant was initially qualified for ACRC services based only on his diagnosis of intellectual disability. And since that diagnosis alone would not justify ACRC funding a wheelchair lift, she told the parents she wanted to refer claimant to the eligibility team to determine if he would be eligible for ACRC services based also on his diagnosis of cerebral palsy. Such a diagnosis would justify ACRC funding a wheelchair lift. Ms. Weitzel made the referral to the eligibility team on May 24, 2017.

7. On May 30, 2017, Ms. Weitzel was informed that the eligibility team determined claimant to be eligible for ACRC services based on his diagnosis of cerebral palsy. She informed claimant's mother of that determination the following week, and explained that the next step was for Ms. Weitzel to refer claimant to a physical therapist for an assessment of his physical needs and abilities and the identification of any durable medical equipment that would assist him with those needs.

8. On June 13, 2017, Ms. Weitzel contacted Capuchino Therapy Group to determine its availability to perform a physical therapy assessment of claimant. But the

following week, before a physical therapy assessment could be performed, claimant's father notified Ms. Weitzel that he and his wife purchased a 2010 Ford E-Series Cargo E-250 van with a wheelchair lift already installed. They paid a \$20,000 down payment, and financed the remainder of the \$39,000 purchase price. Claimant's father asked whether they were approved for funding for the wheelchair lift portion of the van, which cost \$20,895.47.

9. Ms. Weitzel explained to claimant's father that ACRC was waiting for the physical therapy assessment to decide whether it would fund the purchase of a wheelchair lift. But since the van was purchased prior to that assessment being completed, she was not sure if ACRC would reimburse him for the cost of the lift. She agreed to check with her supervisor about the possibility of a retroactive reimbursement. In the meantime, she cancelled Capuchino Therapy Group's physical therapy assessment of claimant.

10. Ms. Weitzel spoke with her supervisor about the possibility of ACRC reimbursing claimant's parents for the cost of the wheelchair lift, and was told that ACRC does not make retroactive reimbursements. She told claimant's parents as much at a planning team meeting on June 22, 2017. Afterward, claimant's parents decided to start the process for requesting a fair hearing on ACRC's refusal to reimburse them \$20,895.47 for the purchase of the wheelchair lift.

11. On July 31, 2017, the parties participated in an informal meeting in an effort to resolve claimant's request for fair hearing. At the conclusion of the meeting, ACRC agreed to have Capuchino Therapy Group complete its physical therapy assessment of claimant.

12. Capuchino Therapy Group completed its assessment of claimant on October 16, 2017. The written report of the assessment provides the following summary of concerns:

Family has purchased a 2010 Ford full size [sic] van with a side platform lift. It is able to transport in [sic] [claimant's brother] in his manual wheelchair and [claimant] can currently sit in the seat. If it comes to a time when he is wheelchair dependent, he will be able to ride in the van in his wheelchair.

But currently, [claimant] is able to transfer into the front row. He uses the handle and with a little assistance from family he is able to get in and out of the seat. He is able to walk for household and short community distances.

The front passenger chair is removable and a second wheelchair could be positioned in this spot if [claimant] is ever wheelchair dependent. The front row passenger seat would be removed, and tracks for tie downs would need to be installed.

The currently [sic] lift would need to be replaced with one that would slide to the side, such as Rincon Slide away. But this is not needed now.

The assessment contains the following recommendations:

The following recommendations were made at the time of evaluation to meet [sic] the needs of the client and family:

The Ford full size [sic] van meets [client's] needs currently. It has a platform lift which can lift [claimant] while standing or

sitting in his brothers' [*sic*] wheelchair. He also is able to transfer in and out of the front seat with only minimal assist.

13. The strength of claimant's upper and lower extremities was rated "fair,"² and the strength of his core, neck, and head was rated as "good." His static and dynamic sitting balance was "good." His static standing balance was good, which his dynamic standing balance was "fair."

14. In terms of activities of daily living, claimant was rated "Dep" for cooking; "Max A" for grooming, bathing, and lower body dressing; "Mod A" for upper body dressing; and "Min A" for eating and toileting.³

15. After reviewing Capuchino Therapy Group's physical therapy assessment, Ms. Weizel was in favor of ACRC reimbursing claimant's parents for the wheelchair lift.

MECHELLE JOHNSON

16. Mechelle Johnson is a client services manager for ACRC, and is Ms. Weitzel's supervisor. She drafted the June 29, 2017 correspondence denying claimant's parents' request for reimbursement for the purchase of the wheelchair lift and the concomitant Notice of Proposed Action. Her correspondence provides the following explanation for ACRC's denial:

The determination of which services and supports the regional center purchases for a client must be made through

² The rating scale was "good," "fair," "poor," or "absent."

³ "'Dep A' = 100% caregiver; 'Max A' = 75% caregiver; 'Mod A' = 50% caregiver; 'Min A' = 25% caregiver, 75% client; 'SBA' – 100% client with assist immediately present; 'Mod Ind.' = 100% client, but with modification or DME support."

the planning team process and with prior agreement of the regional center. Your decision to purchase the van with the adaptive equipment was made outside of the planning team process and without prior agreement of ACRC. Because the decision was made outside planning team process, ACRC was unable to complete a physical therapy assessment to determine whether the adaptations are required to meet [claimant's] specific needs, whether the adaptation is the least costly option for meeting those needs, and whether generic or other resources are legally required to and available to meet any such needs. Additionally, ACRC cannot purchase client services and supports from individuals or entities which are not vendors or contracted with ACRC to provide such services or supports. ACRC has vendored service providers available to provide and install such adaptive equipment. Regional centers are prohibited from reimbursing families directly for services which are available from vendors service providers.

17. At hearing, Ms. Johnson explained that ACRC's decision not to retroactively reimburse claimant's parents for the purchase of the wheelchair lift was based on "policy," not a particular statute or regulation that prohibits retroactive reimbursement. She further explained that claimant's parents should have followed the following process for obtaining ACRC's funding for the wheelchair lift after being notified claimant was eligible for services based on his diagnosis of cerebral palsy: 1) obtain a physical therapy assessment to determine claimant's physical abilities and needs, identify which durable medical equipment would meet those needs, and identify

the vendors who provide the equipment needed; 2) select one of the vendors identified, contact the vendor for a cost estimate, and present the cost estimate to Ms. Weitzel; 3) Ms. Weitzel presents the cost estimate to ACRC's Durable Medical Equipment Committee for a recommendation as to whether ACRC should fund the purchase of the durable medical equipment identified; and 4) the recommendation is forwarded to the planning team for a final decision on whether to purchase the durable medical equipment identified.

18. By not following the above process, Ms. Johnson explained, claimant's parents prevented ACRC from exploring alternate sources of funding for the wheelchair lift. Specifically, Ms. Johnson explained claimant had not been approved for the Medicaid waiver program when the 2010 Ford E-Series Cargo E-250 van was purchased, but was subsequently approved for the program when ACRC referred him to physical therapy for an assessment after the informal meeting. Had his parents followed the proper procedure for obtaining ACRC funding for the wheelchair lift, Ms. Johnson believed, they would have been approved for the Medicaid waiver program sooner, and the federal government would have paid one-half of the cost of the lift. ACRC's financial responsibility would have been only \$10,447.74.

CLAIMANT'S PARENTS

19. Claimant's parents testified that staff at ACRC referred them to Sacramento Van Conversions to look at wheelchair accessible vans because that company is a vendor of ACRC for such equipment. Claimant's father, however, explained that Sacramento Van Conversion only sells minivans, which are too small for the family's needs. Therefore, ACRC staff referred him to Mobility Works, another vendor of ACRC, and he purchased a 1996 Ford full-size van with a wheelchair lift and high ceiling. But shortly after he received the van, he discovered severe damage to the undercarriage, and returned it to Mobility Works.

20. Mobility Works contacted claimant's parents about the availability of the 2010 Ford E-Series Cargo E-250 van they ultimately purchased, and they went to look at it and found it "beautiful." They knew someone else would buy the van if they did not, so they purchased it without ACRC's approval. They paid a \$20,000 down payment, and financed the remainder of the \$39,000 purchase price. Included in that purchase price was the cost of the wheelchair lift, which was \$20,895.47.

21. Once ACRC denied claimant's parents' request for reimbursement for the wheelchair lift, they used their retirement savings to pay off the van. Claimant's mother explained at hearing that the terms of financing would have required them to ultimately pay approximately \$11,000 in interest.

DISCUSSION

22. It was undisputed that ACRC initially qualified claimant for services based solely on his diagnosis of intellectual disability. He was subsequently determined to be eligible for services based also on his diagnosis of cerebral palsy. ACRC failed to explain why claimant was not determined to be eligible for services based also on his diagnosis of cerebral palsy during his initial evaluation. ACRC failed to perform a thorough assessment of claimant's eligibility for services when he first applied for services, thereby resulting in an unnecessary delay in receiving services.

23. Public transportation services for the disabled have proven to be unreliable in claimant's neighborhood, so he depends on his parents and the family van for his transportation needs. A wheelchair lift is helpful for him to have access to the family van, and his parents' ability to provide him with transportation is essential to meeting his IPP goal of continuing to live with this family. A wheelchair lift is the type of "habilitation services and supports" contemplated by the Lanterman Developmental Disabilities Services Act (Lanterman Act) (Welf. & Inst. Code, § 4500 et seq.).

24. ACRC denied claimant funding for the wheelchair lift not because he is not eligible for ACRC's services, the lift is not the type of durable medical equipment he needs, or he could obtain the lift through generic resources; but because his parents violated ACRC's policy prohibiting retroactive reimbursement for durable medical equipment. It was undisputed that ACRC's policy is not based on a statute or regulation which prohibits retroactive reimbursement. It was also undisputed that: 1) the physical therapy assessment ultimately supported acquiring a wheelchair lift for claimant; 2) the wheelchair lift was purchased from an ACRC vendor of such durable medical equipment; 3) ACRC's Durable Medical Equipment Committee makes nothing more than a recommendation about the funding of services, which the planning team is free to reject; and 4) claimant's service coordinator supports reimbursing claimant's parents for the purchase of the wheelchair lift. Denying claimant reimbursement because his parents did not follow ACRC's procedure would place form over substance, and is contrary to the Lanterman Act.

25. ACRC argued at hearing that had claimant's parents followed the proper procedure for obtaining ACRC funding for the wheelchair lift, claimant would have qualified for the Medicaid waiver sooner, and the federal government would have paid for half the cost of the lift. But such argument was supported by nothing more than Ms. Johnson's speculation about what would have happened based on claimant subsequently qualifying for a waiver when ACRC went forward with the physical therapy assessment. Such supposition is insufficient to establish that the federal government would have partially funded the purchase of a wheelchair lift had claimant's parents followed ACRC's procedure for obtaining funding.

LEGAL CONCLUSIONS

APPLICABLE BURDEN/STANDARD OF PROOF

1. Claimant has the burden of proving by a preponderance of the evidence that his parents are entitled to reimbursement of \$20,895.47 for the purchase of the wheelchair lift installed in the E-Series Cargo E-250 van they purchased. (*Lindsay v. San Diego Retirement Board* (1964) 231 Cal.App.2d 156, 161 [the party seeking government benefits has the burden of proving entitlement to such benefits]; Evid. Code, § 115 [standard of proof is preponderance of the evidence, unless otherwise provided by law].) This evidentiary standard requires claimant to produce evidence of such weight that, when balanced against evidence to the contrary, is more persuasive. (*People ex rel. Brown v. Tri-Union Seafoods, LLC* (2009) 171 Cal.App.4th 1549, 1567.) In other words, claimant need only prove it is more likely than not that he is entitled to have ACRC fund the purchase of the wheelchair lift. (*Lillian F. v. Superior Court* (1984) 160 Cal.App.3d 314, 320.)

ACRC has the burden of proving claimant would have qualified for the Medicaid waiver program as an alternative source of funding for the purchase of the wheelchair lift had his parents followed ACRC's procedure for obtaining funding of the lift, and it must do so by a preponderance of the evidence. (Welf. & Inst. Code, § 4659, subd. (a)(1).)

APPLICABLE LAW

2. Under the Lanterman Act, the State of California accepts responsibility for persons with developmental disabilities and pays for the majority of the "treatment and habilitation services and supports" in order to enable such persons to live "in the least restrictive environment." (Welf. & Inst. Code, § 4502, subd. (b)(1).) "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 [citations], and to enable them to approximate a pattern of everyday living of nondisabled persons of the same age and to lead more independent and productive lives in the community [citations]." (*Association for Retarded Citizens v. Department of Developmental Services* (1985) 38 Cal.3d 384, 388.)

3. "Developmental disability" is defined as follows:

"Developmental disability" means a disability that originates before an individual attains 18 years of age; continues, or can be expected to continue, indefinitely; and constitutes a substantial disability for that individual. As defined by the Director of Developmental Services, in consultation with the Superintendent of Public Instruction, this term shall include intellectual disability, cerebral palsy, epilepsy, and autism. This term shall also include disabling conditions found to be closely related to intellectual disability or to require treatment similar to that required for individuals with an intellectual disability, but shall not include other handicapping conditions that are solely physical in nature.

(Welf. & Inst. Code, § 4512, subd. (a).)

4. The state agency charged with implementing the Lanterman Act is the Department of Developmental Services, which is authorized to contract with regional centers to provide developmentally disabled individuals with access to the services and supports best suited to them throughout their lifetime. (Welf. & Inst. Code, § 4620; *Williams v. California* (9th Cir. 2014) 764 F.3d 1002, 1004.) "Regional centers are responsible for locating developmentally disabled persons, assessing their needs, and –

on an individual basis – selecting and providing services to meet such needs. [Citations.]” (*Williams v. California, supra*, 764 F.3d at pp. 1004-1005.) “Any person believed to have a developmental disability ... shall be eligible for initial intake and assessment services in the regional centers.” (Welf. & Inst. Code, § 4642, subd. (a)(1); Cal. Code Regs., tit. 17, § 54010, subd. (a).) After initial intake and assessment, eligibility for ongoing services is dependent on a finding “that the person has a developmental disability that constitutes a substantial disability as defined in Article 1 of this subchapter.” (Cal. Code Regs., tit. 17, § 54010, subd. (b).)

5. Once a consumer has been determined to be eligible for regional center services, the regional center serving the area in which the consumer resides determines how to serve the consumer by conducting a planning process that results in an Individual Program Plan (IPP) designed to promote as normal a lifestyle as possible. (Welf. & Inst. Code, § 4646; *Association for Retarded Citizens v. Department of Developmental Services, supra*, 38 Cal.3d 384, 389.) Welfare and Institutions Code section 4646 provides, in relevant part:

(a) It is the intent of the Legislature to ensure that the individual program plan 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 provision of services to consumers and their families be effective in meeting the

goals stated in the individual program plan, reflect the preferences and choices of the consumer, and reflect the cost-effective use of public resources.

(b) The individual program plan is developed through a process of individualized needs determination. The individual with developmental disabilities and, where appropriate, his or her parents, legal guardian or conservator, or authorized representative, shall have the opportunity to actively participate in the development of the plan.

(c) An individual program plan shall be developed for any person who, following intake and assessment, is found to be eligible for regional center services. These plans shall be completed within 60 days of the completion of the assessment. At the time of intake, the regional center shall inform the consumer and, where appropriate, his or her parents, legal guardian or conservator, or authorized representative, of the services available through the local area board and the protection and advocacy agency designated by the Governor pursuant to federal law, and shall provide the address and telephone numbers of those agencies.

(d) Individual program plans shall be prepared jointly by the planning team. Decisions concerning the consumer's goals, objectives, and services and supports that will be included in the consumer's individual program plan and purchased by

the regional center or obtained from generic agencies shall be made by agreement between the regional center representative and the consumer or, where appropriate, the parents, legal guardian, conservator, or authorized representative at the program plan meeting.

6. Welfare and Institutions Code section 4646.5, subdivision (a), provides the following, in relevant part, regarding the planning process for developing an IPP:

The planning process for the individual program plan described in Section 4646 shall include all of the following:

(1) Gathering information and conducting assessments to determine the life goals, capabilities and strengths, preferences, barriers, and concerns or problems of the person with developmental disabilities. For children with developmental disabilities, this process should include a review of the strengths, preferences, and needs of the child and the family unit as a whole. Assessments shall be conducted by qualified individuals and performed in natural environments whenever possible. Information shall be taken from the consumer, his or her parents and other family members, his or her friends, advocates, authorized representative, if applicable, providers of services and supports, and other agencies. The assessment process shall reflect awareness of, and sensitivity to, the lifestyle and cultural background of the consumer and the family.

(2) A statement of goals, based on the needs, preferences, and life choices of the individual with developmental disabilities, and a statement of specific, time-limited objectives for implementing the person's goals and addressing his or her needs. These objectives shall be stated in terms that allow measurement of progress or monitoring of service delivery. These goals and objectives should maximize opportunities for the consumer to develop relationships, be part of community life in the areas of community participation, housing, work, school, and leisure, increase control over his or her life, acquire increasingly positive roles in community life, and develop competencies to help accomplish these goals.

7. Once the regional center and individual consumer have gone through the planning process and developed an IPP, the regional center must obtain the services and supports necessary for implementing the IPP. Welfare and Institutions Code section 4648 provides, in pertinent part:

In order to achieve the stated objectives of a consumer's individual 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 in the consumer's individual program plan, and within the context of the individual program plan, the planning team shall give highest preference to those services and supports which would allow minors with developmental disabilities to live with their families, adult persons with developmental disabilities to live as independently as possible in the community, and that allow all consumers to interact with persons without disabilities in positive, meaningful ways.

8. The regional center and the consumer shall consider the following "when selecting a provider of consumer services and supports:

(A) A provider's ability to deliver quality services or supports which can accomplish all or part of the consumer's individual program plan.

(B) A provider's success in achieving the objectives set forth in the individual program plan.

(C) Where appropriate, the existence of licensing, accreditation, or professional certification.

(D) The cost of providing services or supports of comparable quality by different providers, if available, shall be reviewed, and the least costly available provider of comparable service, including the cost of transportation, who is able to

accomplish all or part of the consumer's individual program plan, consistent with the particular needs of the consumer and family as identified in the individual program plan, shall be selected. In determining the least costly provider, the availability of federal financial participation shall be considered. The consumer shall not be required to use the least costly provider if it will result in the consumer moving from an existing provider of services or supports to more restrictive or less integrated services or supports.

(E) The consumer's or, where appropriate, the parents, legal guardian, conservator of a consumer's choice of providers.

(Welf. & Inst. Code, § 4648, subd. (a)(6).)

9. Regional centers are required to "identify and pursue all possible sources of funding for consumers receiving regional center services." (Welf. & Inst. Code, § 4659, subd. (a).) Additionally, they are required to adopt internal policies regarding the purchase of services for consumers. (Welf. & Inst. Code, § 4646.4, subd. (a).) But regional centers may not deny necessary services based on the application of a rigid, inflexible policy. (*Williams v. Macomber* (1990) 226 Cal.App.3d 225, 232.) "Final decisions regarding the consumer's individual program plan shall be made pursuant to Section 4646. (Welf. & Inst. Code, § 4646.4, subd. (b).)

10. Although regional centers are mandated to provide a wide range of services to facilitate implementation of a consumer's IPP, they must do so in a cost-effective manner. (Welf. & Inst. Code, §§ 4640.7, subd. (b), 4646, subd. (a).) A regional center is not required to provide all of the services which a consumer may require, but is required to "find innovative and economical methods of achieving the objectives" of the

IPP. (Welf. & Inst. Code, § 4651.) They are specifically prohibited from funding services that are available through another publicly funded agency. (Welf. & Inst. Code, § 4659, subd. (c).) This prohibition is often referred to as “supplanting generic resources.”

However, if the service specified in a consumer’s IPP is not provided by a generic agency, the regional center must fill the gap (i.e., fund the service) in order to meet the goals set forth in the IPP. (Welf. & Inst. Code, § 4648, subd. (a)(1); *Association for Retarded Citizens v. Department of Developmental Services*, *supra*, 38 Cal.3d 384, 390.)

RELEVANT POLICIES

11. ACRC’s Service Policy Manual contains the following General Standards for the Purchase of Services and Supports:

Alta California Regional Center (ACRC) assists consumers and their families in the identification of needs associated with the developmental disability. ACRC assists consumers and their families in the development of an individualized plan for the use of community resources to meet the identified needs. Upon determining that no public or private resource is available to meet the identified need, ACRC shall provide payment for services and supports in keeping with the following:

- The service shall conform to the Lanterman Act
- The service meets a need related to the developmental disability of the consumer
- The service or support must achieve goals or objectives that are clearly stated and defined by measurable outcomes
- The service is supported by research as effective and not harmful

- The service or support shall not duplicate one already being provided through natural supports, generic services or purchases by the regional center
- The service or support encourages independence, productivity, age appropriate skills and inclusion rather than segregation or isolation
- The service must be provided by an “authorized” service provider. The written commitment for payment must be available to the service provider prior to beginning the service
- The service is cost effective.

Management shall prepare a set of procedures to assure a consistent application of these principles. These procedures shall be reviewed and updated as needed, but no less than annually, to reflect changes in statute and regulation and the creation of new services not available today.

The ACRC Executive Director may review and authorize an exception(s) if warranted by individual circumstances.

12. The Service Policy Manual provides the following regarding Durable Medical Equipment:

Alta California Regional Center (ACRC) is committed to assisting consumers and their families in securing and adapting durable medical equipment related to needs arising from the presence of a developmental disability.

“Durable medical equipment” is equipment that:

- is necessary to achieve and maintain a consumer's independent, productive and normal lifestyle
- can be used to serve a functional or medical purpose
- can withstand repeated use for a reasonable expected time-period

Upon determination that there is a durable medical equipment need related to the developmental disability and generic resources are insufficient to meet the cost, ACRC may provide financial assistance to facilitate the procurement of the needed durable medical equipment.

The ACRC Executive Director may review and authorize an exception(s) if warranted by individual circumstances.

CONCLUSION

13. The preponderance of the evidence established claimant's parents are entitled to reimbursement for the cost of the wheelchair lift installed in the 2010 Ford E-Series Cargo E-250 van they purchased on or about June 14, 2017. ACRC did not prove by a preponderance of the evidence the federal government would have paid half the cost of the lift under the Medicaid waiver program had claimant's parents followed ACRC's procedure for obtaining funding for the lift. But ACRC's inability to meet its burden was due, in part, to claimant's parents' purchasing the van outside the planning team process. Therefore, ACRC shall immediately convene a meeting of the planning team to explore the availability of federal funding under the Medicaid waiver program for the wheelchair lift as set forth in the Order below.

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ORDER

Claimant's appeal is GRANTED. His parents are entitled to reimbursement in the amount of \$20,895.47 for the cost of the wheelchair lift installed in the 2010 Ford E-Series Cargo E-250 van they purchased on or about June 14, 2017. ACRC shall immediately convene a meeting of the planning team to explore the availability of federal funds under the Medicaid waiver program to offset the amount it is required to reimburse claimant's parents. Claimant and his parents shall provide all information reasonably requested by ACRC for exploring the availability of such funds. Any portion of the \$20,895.47 cost for the wheelchair lift not covered by the Medicaid waiver program shall be paid by ACRC.

DATED: November 22, 2017

COREN D. WONG

Administrative Law Judge

Office of Administrative Hearings

NOTICE

This is the final administrative decision in this matter. Each party shall be bound by this decision. Either party may seek judicial review of this decision in a court of competent jurisdiction within ninety (90) days. (Welf. & Inst. Code, § 4712.5, subd. (a).)