

BEFORE THE  
OFFICE OF ADMINISTRATIVE HEARINGS  
STATE OF CALIFORNIA

In the Matter of:  
CLAIMANT,  
vs.  
SOUTH CENTRAL LOS ANGELES REGIONAL  
CENTER  
Service Agency.

OAH No. 2018030719

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DECISION

This matter<sup>1</sup> was heard by Nana Chin, Administrative Law Judge, Office of Administrative Hearings (OAH), on May 2, 2018, in Los Angeles California.

Claimant<sup>2</sup> was not present but was represented by her mother at the hearing. Karmell Walker, Fair Hearing Manager, represented the South Central Los Angeles Regional Center (SCLARC).

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

ISSUE

The issue in this case is whether management of Claimant's case file should be transferred back to South Central Los Angeles Regional Center.

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<sup>1</sup> At hearing, the record was opened citing OAH Case Number 20187451561. This number was incorrect. The correct OAH Case Number is cited in the caption.

<sup>2</sup> The names of Claimant and her mother are omitted to protect their privacy.

## EVIDENCE RELIED UPON

Documents: Exhibits 1-5 and A-B.

Testimony: Odulia Juarez, Service Coordinator; George Romero, Smartchart Support Specialist; and Claimant's mother.

## FACTUAL FINDINGS

### PARTIES AND JURISDICTION

1. Claimant is a four-year-old girl who is eligible for services under the Lanterman Developmental Disabilities Services Act (Lanterman Act) (Welf. & Inst. Code, § 4500 et seq.)<sup>3</sup> based upon a qualifying diagnosis of autistic disorder.

2. On September 22, 2017, Claimant's service coordinator at SCLARC, Odulia Juarez (SC Juarez), verbally informed Claimant's mother that management of Claimant's case file would be transferred from SCLARC to Westside Regional Center (WRC) as their residence was within the geographic area served by WRC. Claimant's mother was not provided with written notice of the transfer nor was she advised that she had the right to appeal the transfer.

3. After SCLARC transferred Claimant's case to WRC, Claimant's mother met with Kathryne Gogan, Claimant's assigned service coordinator at WRC. During the meeting, Claimant's mother relayed to Ms. Gogan the manner in which case management of her daughter's file had been transferred to WRC. On February 28, 2018, Claimant's mother received an email from Ms. Gogan's supervisor, Hillary Kessler, program manager at WRC, who advised her that SCLARC had "violated [Claimant's] rights by transferring [Claimant's] case without

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<sup>3</sup> Undesignated statutory references are to the Welfare and Institutions Code.

informing you and/or giving you your due process due process appeal rights.”  
(Exhibit B.)

4. The same day Claimant’s mother received the email, she filed a Fair Hearing Request with SCLARC appealing the transfer of her daughter’s case and requesting that her daughter’s case be transferred back to SCLARC.

#### BACKGROUND

5. In early 2016, after Claimant’s mother became aware that her daughter may be eligible for regional center services, she went to the Department of Developmental Services (DDS) website. The DDS website has a search function where members of the public can input their zip code and be directed to the regional center that provides services for their geographic area. When Claimant’s mother input her information, the website indicated that Claimant’s zip code is served by SCLARC. Below that, there is another notation which indicated that portions of Claimant’s zip code “may also be served” by WRC. (Exhibit A.)

6. Based on this information, Claimant’s mother contacted SCLARC and provided them with her home address. After confirming that Claimant’s residence was within its catchment<sup>4</sup> area, SCLARC had Claimant assessed and found Claimant to be eligible for services pursuant to the California Early Intervention Services Act. (Gov. Code, § 95000 et seq.)

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<sup>4</sup> A regional center’s catchment area is “the geographical area within which a regional center provides services specified in its contract with the [State Department of Developmental Services] as required by Welfare and Institutions Code Section 4640.” (Cal. Code Regs., tit. 17, § 50501, subd. (18).)

7. Once Claimant turned three years old, SCLARC went through the intake process and found Claimant to be eligible for services under the Lanterman Act. SC Juarez was assigned as Claimant's service coordinator on November 18, 2016.

8. On December 21, 2016, an Individual Program Plan (IPP) meeting was held with Claimant. According to SC Juarez, Claimant did not reside within SCLARC's catchment area at the time of the meeting, and Claimant's mother appeared to be aware of that fact. Despite this apparent awareness, the IPP meeting proceeded and Claimant's initial IPP was generated.

9. At the close of the meeting, SC Juarez claims she advised Claimant's mother that Claimant's case would be transferred to WRC after the services outlined in Claimant's IPP were put in place. No evidence documenting this conversation was presented at hearing.

10. According to SC Juarez, although she was aware Claimant did not reside within SCLARC's catchment area prior to the December 2016 meeting, as there was an IPP, she could not transfer Claimant's case to WRC until all services are put in place. The last service outlined in Claimant's 2016 IPP was put in place on July 28, 2017.

11. On September 22, 2017, SC Juarez contacted Claimant's mother "to inform her that all services requested have been put in place and case will be transferred to the appropriate regional center which is Westside Regional Center, as [Claimant] resides within their catchment area." (Exhibit 5.) SC Juarez testified that Claimant's mother agreed to the transfer. According to SC Juarez, as Claimant's mother appeared to be in agreement with the transfer, she did not to send Claimant a Notice of Proposed Action (NOPA) regarding the transfer.

12. At hearing, Claimant's mother denies that she had been in agreement with the transfer. Rather, Claimant's mother contends SC Juarez simply notified her of the transfer during the phone call and that she had been unaware that she could appeal the transfer until she was advised of her rights by WRC.

13. SC Juarez's testimony throughout the hearing was generally not credible. Specifically, though SC Juarez appeared to have a clear recollection of events which were potentially favorable to her and which placed Claimant's mother in a negative light, her memory appeared to fail when facts or events were potentially unfavorable to her.

14. Additionally, SC Juarez attributed the delay in transferring Claimant's case to the fact that SCLARC had to put in place all the services outlined in Claimant's IPP before it transferred the case to WRC. SC Juarez, however, failed to provide any explanation as to why she conducted the IPP, knowing that Claimant did not reside within SCLARC catchment area

15. SC Juarez testified that Claimant's mother had been aware that she resided within WRC's catchment area but had told her that she did not want to transfer management of her daughter's case to WRC because she did not "want to deal with them white folks there." SC Juarez also testified that Claimant's mother had been pleased with her assistance after the completion of IPP meeting, stating to her that she was "really glad that [she] gave [her] a chance." In view of her purported disinclination to have her daughter's case transferred to WRC, to suggest that Claimant mother's acknowledgement of SCLARC's stated intention to transfer her daughter's case to WRC constituted an "agreement" is not reasonable.

## CATCHMENT AREA

16. George Romero, SCLARC Smart Chart Support Specialist, testified that certain zip codes are serviced by more than one regional center. When more than one regional center services a zip code, the DDS website will list both regional centers. According to Mr. Romero, when an individual seeking services contacts the regional center, it is the responsibility of the regional center to confirm that the individual resides within its catchment area.

17. In the present matter, Claimant lives in a zip code that receives services from both WRC and SCLARC. According to Mr. Romero, however, there is a DDS agreement which specifies that Inglewood is provided services by WRC. This agreement was not put into evidence nor did SCLARC establish that Claimant lives in Inglewood.

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## TESTIMONY OF CLAIMANT'S MOTHER

18. According to Claimant's mother, she objects to the transfer for several reasons. Claimant's mother believes SCLARC is a "good fit" for her daughter. South Center Los Angeles is also her neighborhood and she is now familiar with SCLARC and would like the continuity for her daughter. Finally, SCLARC is only 20 minutes away from her home, while it can take her an hour and a half or more to travel to WRC.

## LEGAL CONCLUSIONS

### JURISDICTION

1. The Lanterman Act governs this case. (§ 4500 et seq.) An administrative “fair hearing” to determine the rights and obligations of the parties is available under the Lanterman Act. (§§ 4700-4716.)

2. Pursuant to Section 4710.5, subdivision (a), “Any ... authorized representative of the applicant or recipient, who is dissatisfied with any decision or action of the service agency which he or she believes to be illegal, discriminatory, or not in the recipient’s or applicant’s best interests, shall ... be afforded an opportunity for a fair hearing.”

3. An essential part of a fair hearing is “adequate notice” to a consumer of a regional center’s proposed action. Section 4710, subdivision (a), requires “adequate notice” be provided to the consumer and authorized representative when the regional center makes “ a decision without the mutual consent of the service recipient or authorized representative to reduce, terminate, or change services set forth in an individual program plan.” “Adequate notice” is “written notice” which must include, information regarding “[t]he action the service agency proposes to take. . .” “the reason or reasons for that action,” “the specific law, regulation, or policy supporting the action” and information regarding the consumer’s appeal rights. (§ 4701.)

4. In the present matter, though SCLARC knew or should have known that Claimant’s mother would object to the transfer of her daughter’s case to WRC, SCLARC violated the Lanterman Act by failing to provide Claimant with adequate notice of its proposed action as required by Sections 4701 and 4710 and immediately implementing its proposed action. SCLARC also failed to provide Claimant’s mother with information concerning her fair hearing rights or a Fair

Hearing Request Form. Once Claimant's mother was advised of her appeal rights by WRC, Claimant's mother submitted a request for a fair hearing appealing SCLARC's decision to transfer of Claimant's case to WRC. Any delay in filing the hearing request was therefore caused by SCLARC's failure to provide Claimant's mother with adequate notice and jurisdiction in this matter has been established.

#### BURDEN OF PROOF

5. The party asserting a claim generally has the burden of proof in administrative proceedings. (See, e.g., *Hughes v. Board of Architectural Examiners* (1998) 17 Cal.4th 763, 789, fn. 9.)

6. As the party asserting the claim, Claimant has the burden of proving by a preponderance of the evidence that the transfer of Claimant's case to WRC was improper. (See, Evid. Code, §§ 115 and 500.)

#### APPLICABLE LAW

7. In enacting the Lanterman Act, 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 SCLARC, a critical role in the coordination and delivery of services and supports for persons with disabilities. (§ 4620, et seq.) Regional centers are responsible for developing and implementing IPPs, for taking into account consumer needs and preferences, and for ensuring service cost-effectiveness. (§§ 4640.7, 4646, 4646.5, 4647, and 4648.)

8. Code section 4620, subdivision (a), states in part:

In order for the state to carry out many of its responsibilities as established in this division, the state shall contract with appropriate agencies to provide fixed points of contact in the community for persons with developmental disabilities and their families, to the end that these persons may have access to the services and supports best suited to them throughout their lifetime. It is the intent of the Legislature in enacting this division that the network of regional centers for persons with developmental disabilities and their families be accessible to every family in need of regional center services. It is the further intent of the Legislature that the design and activities of regional centers reflect a strong commitment to the delivery of direct service coordination and that all other operational expenditures of regional centers are necessary to support and enhance the delivery of direct service coordination and services and supports identified in individual program plans.

9. Regional centers are established as “fixed points of contact” to enable the state to carry out its duties to the developmentally disabled, *i.e.*, persons such as claimant, and to allow those persons access to the services that are ultimately paid for by the state. The legislature intended that the activities of the regional centers “reflect a strong commitment to the delivery of direct service coordination” for services and supports identified in a consumer’s individual

program plan. (§ 4620, subd. (a)). Thus, one of the key components of the entire system established by the Lanterman Act is service coordination.

## EVALUATION

10. As set forth in Factual Findings 2, 11, 12, 14 and 15 and Legal Conclusions 2, 3 and 4, Claimant has met her burden in proving that SCLARC improperly transferred her case to WRC without providing proper notice in violation of the Lanterman Act. The burden is then on SCLARC to show that the transfer to WRC was necessary.

11. SCLARC has argued that a regional center can only provide services to consumers who live within its own service catchment area. Contrary to SCLARC's position, however, there is no provision of the law which specifically bars a consumer from obtaining service coordination from one regional center while living within the "catchment" area of another.

12. Section 4643.5, subdivision (c), which was cited by SCLARC in the support of its decision to transfer management of Claimant's case simply requires that a method of transfer be available to prevent an interruption of services *if* a consumer moves from one area to another. It does not establish that transfer is mandated if, after providing services, a regional center determines that the consumer does not reside within its catchment area. Put another way, there is no clear bar to a consumer giving up the benefit of being closer to one fixed point of contact if another suits that consumer's needs in a better way.

13. SCLARC's argument that consumers are assigned to regional centers in a strict, rigid fashion according to his or her address of residence, even where the result would be an unnecessary inconvenience and unfair hardship on the consumer's family, cannot be squared with the Lanterman Act's emphasis on family preferences and choices. Such a view is inconsistent with the policy of

regional centers to exercise discretion in such matters. That is not to say that a consumer or consumer's family ought to be able to select whatever regional center is perceived most favorable or responsive to the consumer's wants and needs. In the usual case, the geographic boundaries should be respected in order to give order and effect to the greater legislative scheme. But in the individual case, circumstances may justify that an exception be made. To transfer Claimant's case against her mother's wishes when doing so creates a hardship in transportation and time, and where the regional center was itself responsible for incorrectly identifying Claimant's residence as being within its catchment area is unreasonable. SCLARC failed to establish that any compelling policies or circumstances exist which would take precedence over the legislative policy of empowering consumer choice.

## ORDER

Claimant's appeal is sustained. Case management of Claimant's case shall be transferred back to SCLARC.

DATED:

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NANA CHIN  
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 90 days.