

BEFORE THE  
OFFICE OF ADMINISTRATIVE HEARINGS  
STATE OF CALIFORNIA

In the Matter of:

CLAIMANT,

vs.

REDWOOD COAST REGIONAL CENTER,

Service Agency.

OAH No. 2018070272

DECISION

Administrative Law Judge Karen Reichmann, State of California, Office of Administrative Hearings, heard this matter on August 1, 2018, in Eureka, California.

Claimant appeared at the hearing and represented himself.

Mary Block, Director of Client Services, represented the Redwood Coast Regional Center (RCRC), the service agency.

The record closed and the matter was submitted for decision on August 1, 2018.

ISSUE

Is claimant entitled to RCRC funding for a reclining chair to be used with a mechanical lift?

FACTUAL FINDINGS

1. Claimant is an adult RCRC consumer with cerebral palsy. Claimant is ambulatory and lives independently.

2. Claimant and RCRC are parties to an Individual Program Plan (IPP), dated April 4, 2018. Claimant's IPP goals are: 1) to continue to live in his own home; 2) to maintain his health; 3) to explore paid employment opportunities; and 4) to maintain positive emotional health and social activities, including advocating for individuals with disabilities. The IPP calls for RCRC to fund 40 hours per month in supported living services.

3. Claimant had hip replacement surgery in late April, 2018. After surgery, claimant at first stayed with his parents who live nearby. Claimant's orthopedic surgeon, Ryan Moore, M.D., recommended that claimant use a chair with a lifting mechanism upon his return home, to minimize the risk of falling and injuring the newly-replaced hip joint. Claimant's recovery is complicated by his cerebral palsy. Dr. Moore wrote a prescription for a "motorized lift chair." Claimant's parents arranged for Broadway Medical, a durable medical equipment supplier in Eureka, to deliver the motorized lift chair to claimant's home on May 8, 2018. Claimant's parents paid \$162.75 to rent the reclining chair with lift mechanism. Sitting in the reclining chair is therapeutic because it elevates claimant's legs and takes the weight off of the hip joints. Using the lift mechanism is essential for claimant to safely stand up from the chair. Dr. Moore has reiterated to claimant and his parents that it is important for claimant to continue using the lift chair to transfer from sitting to standing, because claimant has an enhanced risk of reinjuring the hip due to his cerebral palsy. Claimant's physical therapist also strongly recommends that claimant continue to use a lift chair for safety because his cerebral palsy interferes with his ability to transition from sitting to standing.

4. On May 8, 2018, claimant called his service coordinator, Ashley Alban, to ask for RCRC to pay for the motorized lift chair. A Notice of Proposed Action was sent to claimant on June 4, 2018, stating: "RCRC is denying the request for funding of a reclining chair. RCRC will consider funding for chair lift mechanism for chair upon denial

from Medi-Cal/Partnership. Additionally, RCRC is denying the request to fund the chair and lift mechanism rental." The reason given for the denial is "RCRC does not fund non-disability related household items." Claimant submitted a Fair Hearing Request on June 18, 2018.

5. An informal hearing was held on June 26, 2018. On July 11, 2018, RCRC notified claimant of its final offer of resolution regarding claimant's request. In the letter, RCRC offered to fund \$325.50 as payment for purchase of the lift mechanism component of the motorized lift chair. RCRC noted that claimant would then have to pay \$268.58 for the chair itself, because Broadway Medical will credit the rental costs already paid by claimant's parents to the cost of purchasing the chair component of the motorized lift chair.

6. Sarah Hames-Anderson, a registered nurse for RCRC, explained RCRC's decision. She consulted with Broadway Medical, who informed her that Medicare does pay for the lift component of the chair at issue, but only for patients with certain diagnoses. Medi-Cal will never pay for the chair or lift. Broadway Medical concluded that claimant would not qualify for Medicare to pay for the lift mechanism, because he does not have a diagnosis of "severe" arthritis or neuromuscular disease. Broadway Medical declined to seek funding from Medicare. RCRC does not believe that the chair itself is "medically necessary," but is willing to fund the lift component because it views the lift as an "accommodation." RCRC acknowledges that there are no generic resources available to fund the lift.

7. Claimant explained that the lift mechanism cannot be used without the specific chair, and is therefore useless without the chair. He requests RCRC to pay for the lift mechanism and chair, and to refund his parents the \$162.75 rental fee.

8. Daniel White, claimant's supported living caregiver, confirmed that the use of the chair has been a major factor in claimant's rehabilitation from surgery. White

does not believe that claimant would have been able to return to his home without it. He explained that the chair helps claimant maintain his independence and lessen his need for supported living services. RCRC temporarily increased the number of supported living services hours after claimant's surgery, but the number of hours has already been reduced due to claimant's successful recovery.

## LEGAL CONCLUSIONS

1. Pursuant to the Lanterman Developmental Disabilities Services Act, the State of California accepts responsibility for persons with developmental disabilities. (Welf. & Inst. Code, § 4500 et seq.<sup>1</sup>) The Lanterman Act mandates that an "array of services and supports should be established ... to meet the needs and choices of each person with developmental disabilities ... and to support their integration into the mainstream life of the community." (§ 4501.) Regional centers have the responsibility of carrying out the state's responsibilities to the developmentally disabled under the Lanterman Act. (§ 4620, subd. (a).) The Lanterman Act directs regional centers to develop and implement an IPP for each individual who is eligible for services, setting forth the services and supports needed by the consumer to meet his or her goals and objectives. (§ 4646.) The determination of which services and supports are necessary is made after analyzing the needs and preferences of the consumer, the range of service options available, the effectiveness of each option in meeting the goals of the IPP, and the cost of each option. (§§ 4646, 4646.5 & 4648.)

2. Section 4512, subdivision (b), provides:

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<sup>1</sup> All statutory references are to the Welfare and Institutions Code.

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.

"Services and supports" include "adaptive equipment and supplies." (*Id.*)

3. While regional centers have a duty to provide a wide array of services to implement the goals and objectives of the IPP, they are also directed by the Legislature to provide services in a cost-effective manner. (§ 4646, subd. (a).) Regional centers must identify and pursue all possible alternative sources of funding when determining whether to fund a requested service. (§§ 4659, subd. (a)(1) & 4646.4.)

4. Claimant has the burden of proving by a preponderance of the evidence his eligibility for government-funded services. (See *Lindsay v. San Diego Retirement Bd.* (1964) 231 Cal.App.2d 156, 161; *Greatoroex v. Bd. of Admin.* (1979) 91 Cal.App.3d 54, 54; Evid. Code, § 500.)

5. Claimant is a disabled adult living a rich and independent life. After recent surgery, his surgeon prescribed a "motorized lift chair" to assist in his recovery and to prevent future injury. Claimant's specific need for assistance to move from sitting to standing is the result of his developmental disability. Although the chair and lift are billed separately by the durable medical provider, the lift cannot be used without the chair. RCRC's decision to fund only the lift does not fully address claimant's need for

assistance transferring from a sitting to a standing position. Such an accommodation is necessary for claimant to fulfill his IPP goals of living independently and maintaining his health. RCRC did not establish that the Lanterman Act bars it from funding the chair component of the motorized lift chair. RCRC did not establish that it is bound by Medicare's funding rules regarding whether this type of equipment is medically necessary. The entire chair and lift mechanism is "adaptive equipment." The evidence established that claimant has a necessity, stemming from his disability, for adaptive equipment consisting of a motorized lift chair.

6. The evidence established that there is no generic resource available that will fund the requested equipment.

7. Claimant has met his burden. Cause exists for RCRC to fund the entire cost of the chair and lift, including reimbursement to claimant's parents who arranged for the rental of the chair in the aftermath of claimant's surgery.

## ORDER

Claimant's appeal is granted. RCRC shall fund the cost of the mechanical chair with lift mechanism, including reimbursing claimant's parents for the initial rental expense.

DATED: August 8, 2018

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KAREN REICHMANN

Administrative Law Judge

Office of Administrative Hearings

## NOTICE

This is the final administrative decision in this matter. Judicial review of this decision may be sought in a court of competent jurisdiction within ninety (90) days.