

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

CLAIMANT,

vs.

GOLDEN GATE REGIONAL CENTER,

Service Agency.

OAH No. 2018080500

DECISION

Administrative Law Judge Regina Brown, Office of Administrative Hearings (OAH), State of California, heard this matter on September 11, 2018, in San Mateo, California.

Claimant was represented by her mother and co-conservator.

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

The record was left open to allow Claimant's mother to file a written closing argument which was received on September 17, 2018, and marked for identification only as Exhibit D. GGRC did not file a written closing argument. The record was closed.

The matter was submitted on September 17, 2018.

ISSUES

1. Whether GGRC failed to vendorize Claimant's parent for Independent Living Services (ILS) as agreed in the Individualized Program Plan (IPP).
2. Whether GGRC failed to fund ILS services as agreed at the IPP meeting.

3. Whether GGRC provided a Notice of Proposed Action (NOPA) denying Claimant's request for vocational services through BOK Ranch Therapeutic Riding Center within the required five working days.

4. Whether GGRC failed to provide Claimant information about transportation services vendor, Public Partnership, Ltd. (PPL), for reimbursement and funding for Caltrain, a commuter rail line.

FACTUAL FINDINGS

1. Claimant is a 25-year-old female consumer of GGRC services based on her diagnosis of autism. She lives with her parents. She participates in a variety of activities organized by her family who provide transportation to these activities.

2. Claimant's most recent IPP is dated February 22, 2018. A goal of the IPP is that Claimant will obtain ILS to help her develop the skills to live independently. The IPP indicated that Claimant's mother would complete the paperwork and application to become GGRC vendor to provide ILS training. Another goal of the IPP is that Claimant will safely access and utilize public transportation. The IPP indicated that GGRC may help arrange travel training services when it can be used to help Claimant get to and from a particular location, and the GGRC social worker would request GGRC funding for a bus pass when the type of bus pass had been determined. The IPP also indicated that GGRC was waiting for a response from Claimant's mother regarding how BOK Ranch's vocational program differed from a social/recreational class and that more information was required before a decision could be made about funding the program.

ILS VENDORIZATION

3. Julie Gin, GGRC Social Worker, contacted GGRC's Community Services Unit to find out the process for Claimant's mother to become vendorized with GGRC to

provide ILS services. On March 2, 2018, Claimant's mother submitted a completed GGRC Potential Vendor Questionnaire Non-Residential regarding ILS services.

4. On March 15, 2018, Sarah Shafon, GGRC Resource Development, Community Services Unit, sent an email to Claimant's mother introducing herself as the assigned person to assist with the vendorization process. They had a telephonic meeting on March 21, 2018. On April 23, 2018, Shafon sent an email to Claimant's mother indicating that she had not received the ILS research that Claimant's mother said she would provide. Shafon sent a checklist for the program design required for ILS vendorization and application. The program design checklist listed all the regulations from the California Code of Regulations that needed to be met, including the regulation number for reference. Claimant's mother submitted the vendor application on April 24, 2018. Claimant's mother indicated that she did not understand the program design checklist and requested detailed explanations for each question. Shafon sent Claimant's mother an email inviting her to come into the office for assistance on the program design.

5. On June 4, 2018, Shafon sent an email to Claimant's mother attempting to schedule an appointment. Claimant's mother responded with dates that she would be available for a telephone conference. In addition, she stated that she was still waiting for an answer regarding the vendorization application, an email explaining the vendorization process including her vendorization number, and the amount of hourly pay for ILS services. On June 7, Claimant's mother sent information purportedly regarding the ILS service that she would provide to Claimant. However, Claimant's mother sent information entitled "Supported Living Services (SLS)" which is different from ILS.

6. On June 7, 2018, a telephonic conference was held with Claimant's mother, Shafon, and supervisor Kim Morgan, Community Services Manager, in attendance.

Afterwards, Shafton sent an email to Claimant's mother summarizing the meeting as follows:

I am attaching the vendor regulations and also the vendorization checklist for your information. As we discussed in our meeting we will need you to first write and submit a program design, buy liability insurance (umbrella policy), fill out the day cost statement attached (filled out line 1-8), and send your resume and diplomas. The vendorization checklist will have your name on each line where we need for you to send us a document. As we mentioned in the meeting yesterday the program design is the first step and needs to be completed before we can move forward to the remainder of the document. **Once your program design is approve[d] I will send you the rate agreement to sign, the rate agreement will need to be signed to formalize your agreement.** I am attaching an example of a program design that I found on google.com that is about Independent Living Services. **Also it is very important for you to know that you cannot start providing any services to your daughter until you receive an approval letter from Community Services Unit that states you are officially vendorized with a vendor number.** (Emphasis in original.)

7. There was no evidence provided at hearing on whether Claimant's mother completed and submitted the program design checklist or the other required documents for vendorization approval. Until she completes the required paperwork and

is approved as a GGRC vendor, Claimant's mother cannot be paid for providing any ILS services to Claimant.

NOPA AFTER DENIAL OF VOCATIONAL SERVICES

8. On March 20, 2018, Tracey-Anne Timmons, GGRC Supervising Social Worker, requested that Claimant's mother sign a release of information so that she could contact BOK Ranch on behalf of Claimant. On April 9, 2018, Timmons requested that Claimant's mother provide information regarding the age requirements, the tasks that participants are required to perform, and whether a participant needs to have completed riding lessons before entering the vocational program at BOK Ranch. On April 13, 2018, Timmons spoke with an employee at BOK Ranch who had determined that Claimant was not an appropriate candidate for the vocational program. On April 13, 2018, an email was sent to Claimant's mother indicating that the BOK Ranch vocational program was not appropriate for Claimant and that a NOPA would be sent within five business days.

9. On April 19, 2018, GGRC issued a NOPA denying Claimant's request for funding vocational classes at BOK Ranch because the vocational program at BOK Ranch was not appropriate for Claimant.

10. This NOPA was timely served on Claimant.

TRANSPORTATION REIMBURSEMENT AND FUNDING

11. Transportation is a service that is provided for consumers to get to and from activities. Transportation is paid through vouchered payments, as there is no direct payment by GGRC. Vouchered payments must be paid through PPL, GGRC's fiscal management service provider.

12. On March 6, 2018, Gin informed Claimant's mother that she had reached out to a manager at PPL regarding a Clipper card¹ for Claimant. On March 14, 2018, Claimant's mother reiterated that Claimant needed to be trained to take Caltrain to attend activities and permit her to apply for jobs. On March 20, 2018, Timmons provided additional information regarding transportation funded by GGRC through PPL. According to Timmons, GGRC could fund SamTrans, a public bus transportation service and a vendored service through PPL, and load the funds onto a Clipper card, which is not a vendored service through PPL, and then Claimant would be able to pay for Caltrain through SamTrans. Timmons suggested that Claimant's mother contact the regional manager at R&D Transportation Services, Marie Marchese, to discuss the different transit services within the county that might be suitable for Claimant. Claimant's mother confirmed that she wanted funding for a SamTrans bus pass. Gin informed her that a signed consent form was required.

13. On April 13, 2018, Gin informed Claimant's mother that she should apply for the discount monthly pass which is \$100.80 per month. Gin also informed Claimant's mother that if she had questions about how to obtain the discount monthly pass, she should contact Marie Marchese at R & D Transportation and Gin provided Marchese's email address.

14. On April 26, 2018, GGRC receiving the signed consent form regarding the Caltrain discount pass reimbursement. Gin contacted Claimant's mother and reiterated that GGRC can only reimburse \$100.80 per month for the cost of the Clipper card at the discounted rate for individuals with disabilities. Gin also informed her that GGRC would reimburse her this rate as of April 16, 2018, which was the date GGRC was able to add

¹ A Clipper card is a reloadable card used for electronic transit fare payment in the San Francisco Bay Area.

the vendorization. She would not be reimbursed for the Clipper cards purchased in March 2018 and April 2018 at the rate of \$226 per month because it was not a vendored service through PPL at that time and she could not be reimbursed the full non-discounted rate.

15. On August 6, 2018, Claimant filed a fair hearing request.

16. Gin, Shafton, and Timmons testified credibly at hearing about their actions taken regarding Claimant's case and the service agency's employees' communications with Claimant's mother and other service providers.

17. Claimant's mother did not testify at hearing. In her closing argument, she contends that GGRC focuses on her lack of capacity to understand or her failure to cooperate. She contends that GGRC engages in "delays and obstacles in the processes involved in IPP development and service delivery; "[p]laying dumb" which allows Regional Centers' employees to ignore the law and parents' rights; GGRC "forgetting" to do things; GGRC repeatedly forgetting to follow-up or getting back to parents with information; failure to schedule IPP meetings; [b]eing "away from the phone," so parents/caregivers give up; GGRC using overly technical interpretations of the Lanterman Act to fabricate misleading NOPAs; GGRC's Abuse use of the Fair Hearing process to harass a Parent; GGRC's use of its unlimited financial resources, to transform hearings into a tool of psychological harassment; GGRC's constant insinuations of parent's greed and abuse of the system." Ultimately, Claimant's mother contends that GGRC retaliated against Claimant by "playing dumb, denying and delaying services." Claimant's mother concluded by arguing that GGRC failed to provide timely and appropriate vendorization information, support and funding regarding ILS services; reimbursement for bus/train passes from PPL the vendor chosen by GGRC, and failed to provide timely and appropriate NOPA's.

18. Claimant did not provide any evidence in support of these contentions.

LEGAL CONCLUSIONS

1. In the Lanterman Developmental Disabilities Services Act (Lanterman Act), the Legislature has created a comprehensive scheme 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." (Welf. & Inst. Code, § 4501.)² The purposes of the scheme are twofold: (1) to prevent or minimize the institutionalization of developmentally disabled persons and their dislocation from family and community (§§ 4501, 4685); and, (2) to "enable developmentally disabled persons to approximate the pattern of living of nondisabled persons of the same age and to lead more independent and productive lives in the community." (§§ 4501, 4750.)

2. In order to determine how an individual consumer is to be served, regional centers are directed to conduct a planning process which results in an IPP for the client. The IPP is developed by an interdisciplinary team and includes participation by the consumer and/or his or her representative. (§ 4646, subds. (b) & (d).) The IPP states the consumer's goals and objectives and delineates the services and supports the consumer needs in order to achieve the goals set forth in the Lanterman Act. (§§ 4646, 4646.5, and 4648.) Among other things, the planning process for developing an IPP includes gathering information (§ 4646.5, subd. (a)(1)), developing a statement of goals, based on the needs, preferences and life choices of the consumer, and developing a statement of specific time objectives for implementing the person's goals and addressing his or her needs. (§ 4646.5, subd. (a)(2).) Thereafter, the team is to develop a schedule of the type and amount of services to be purchased by the service agency or obtained from generic resources in order to obtain the goals and objectives of the IPP. (§ 4646.5, subd. (a)(4).)

² All statutory references are to the Welfare and Institutions Code.

All decisions concerning the consumer's goals, objectives, and services and supports that will be included in the IPP and purchased by the service agency or obtained from generic agencies are to be made by agreement of the regional center representative and the consumer or the consumer's representative. (§ 4646, subd. (d).) The service coordinator or case manager is the person responsible for preparing, overseeing, monitoring, and implementing the IPP. (§ 4647, subds. (a) & (b).)

ISSUE NO. 1

3. GGRC has not failed to vendorize Claimant's parent for ILS. The evidence established that Claimant's mother did not complete the process to be approved as a GGRC vendor. The evidence established that GGRC staff has worked diligently on Claimant's case in attempting to have her mother become a vendor and provide Claimant with ILS services. Therefore, there was no denial of service for Claimant.

ISSUE NO. 2

4. GGRC did not fail to fund ILS services for Claimant. The evidence established that Claimant's mother did not complete the process to be approved as a GGRC vendor. She cannot be paid any funds until she has been approved as a GGRC vendor. Therefore, there was no denial of service for Claimant.

ISSUE NO. 3

5. GGRC provided a timely NOPA denying vocational services at BOK Ranch within the required five working days after deciding not to provide the requested vocational services to Claimant. The evidence established that GGRC staff has worked diligently on Claimant's case. Therefore, there was no denial of service for Claimant.

ISSUE NO. 4

6. GGRC provided Claimant with the appropriate information about transportation services vendor, PPL, for train pass reimbursement and funding. The evidence established that GGRC provided sufficient information to Claimant's mother about the requested transportation services. Again, the evidence established that GGRC staff has worked diligently on Claimant's case. Therefore, there was no denial of service for Claimant.

7. All of Claimants contentions have been considered. It has not been established that GGRC violated the Lanterman Act.

ORDER

The appeal of Claimant is denied.

DATED: October 1, 2018

REGINA BROWN

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.