

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. 2018101290

DECISION

Howard W. Cohen, Administrative Law Judge, Office of Administrative Hearings, State of California, heard this matter on December 10, 2018, in Los Angeles.

Karmell Walker, Fair Hearing Manager, represented South Central Los Angeles Regional Center (SCLARC or Service Agency). Claimant represented himself.¹

Oral and documentary evidence was received, the record was closed, and the matter was submitted for decision on December 10, 2018.

ISSUE

Whether SLCARC is required under the Lanterman Developmental Disabilities Services Act (Lanterman Act) to fund rental support for claimant.

EVIDENCE RELIED UPON

Documents. Service Agency's exhibits 1 through 4.

¹ "Claimant" and family titles are used to protect the privacy of claimant and his family.

Testimony. Saul Lopez; claimant; claimant's aunt.

FACTUAL FINDINGS

PARTIES AND JURISDICTION

1. Claimant is a non-conserved 23-year-old man who is a consumer of SCLARC based on his qualifying diagnosis of seizure disorder.

2. In September 2018, claimant informed SCLARC that he wished to live independently and requested funding assistance for rent.

3. SCLARC denied the request. In a Notice of Proposed Action (NOPA) dated September 19, 2018, and an accompanying letter to claimant's mother, Dexter A. Henderson, Executive Director, wrote that "On occasion, exceptions may be made to provide rental assistance. However, as you were previously informed by SCLARC's Assistant Director, that generally occurs when a consumer has a history of multiple failed housing or placement due to health or behavioral issues. That is not the case with [claimant]." (Ex. 2.) Mr. Henderson cited, as authority for the funding denial, Welfare and Institutions Code sections 4689,² 4659, 4648, subdivision (a)(8), and 4512, subdivision (b), as well as regional center Purchase of Service (POS) Funding Standards. In his letter, Mr. Henderson provided the names and contact information of various agencies, and a link to the website of an organization providing assistance with affordable apartment searches, as possible generic sources of funding for rental assistance.

4. On October 11, 2018, claimant submitted to SCLARC a Fair Hearing Request (FHR), writing that the regional center should subsidize his rent. This hearing followed.

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

CLAIMANT'S SERVICES AND SUPPORTS

5. According to the most recent annual revision to claimant's Individual Program Plan (IPP), dated September 7, 2018, as a result of his seizure disorder claimant "[r]equires constant supervision during waking hours to prevent injury/harm in all settings." (Ex. 4.) He experiences "uncontrolled grand mal, tonic clonic and petite mal seizures with a frequency of several times daily . . ." (*Ibid.*) Claimant has been prescribed an anti-convulsant medication, and was hospitalized due to his seizures in May 2018. Medi-Cal funds the costs of claimant's medication and medical services. "Due to uncontrolled seizures, [claimant] has chosen not to attend school, participate in a day program, or pursue employment opportunities. [He] informed that his focus at the time of the writing of this report is to secure permanent housing." (*Ibid.*) Claimant has friends and a strong support system, but does not participate in community activities due to his disability.

6. As of September 7, 2018, the date of the IPP revision meeting, claimant was:

currently homeless, couch surfing at the homes of friends. He spends the weekends with his mother in the Inland Empire. He expressed an interest in continuing to reside in the City of Los Angeles and securing permanent housing. Once permanent housing is secured, [claimant] stated that he would like to participate in Independent Living Skills (ILS) and Supportive Living Skills (SLS) services." (Ex. 4.)

7. SCLARC funds 50 hours per month of SLS services for claimant through Congregate Connect Supportive Living Skills. Claimant also receives Supplemental Security Income (SSI) in the amount of approximately \$900 per month, which he is supposed to use for monthly household expenses, including rent, food, and incidentals. (Ex. 4.)

TESTIMONY AT HEARING

8. Saul Lopez, a program manager who supervises claimant's service coordinator, testified that SCLARC suggested various generic sources of funding for claimant. He testified that if claimant were to live in a residential placement facility or Fair Housing Administration (FHA) home, the Service Agency would provide funding assistance for the difference between claimant's SSI payment and the cost of the facility. Claimant would be required to send SCLARC his SSI check, and the Service Agency would pay him a stipend of \$140 per month for personal expenses. Claimant is searching for an affordable independent living situation instead; the SLS staff, funded by the Service Agency, is assisting him.

9. Though the Service Agency does not generally provide rental support for its consumers, the Lanterman Act provides for exceptions in special circumstances, Mr. Lopez testified. When a consumer who lives independently is hospitalized for an extended time, for example, the Service Agency may temporarily fund the consumer's rent, depending on the consumer's need. Claimant does not meet the conditions for an exception. He is not employed; his income, which consists entirely of SSI payments, is unaffected by any hospitalization. Rent is the responsibility of claimant and, if applicable, a roommate.

10. Claimant argued that he should be eligible for rent assistance because he is unable to work due to his seizures. He is frequently hospitalized, he testified, and cannot hold a job because employers see him as a liability. Claimant offered no testimony or other evidence from others to corroborate his argument; his IPP, though not conclusive, appears to cast his lack of employment as claimant's choice. (See Factual Finding 5.)

11. Claimant's aunt testified that claimant's mother, a registered nurse, had a stroke a couple of months ago from which she is still recovering, and brain surgery a couple of weeks ago. Her husband, claimant's stepfather, has given claimant notice to move out of the house. So claimant must find somewhere to live. His aunt testified that she, too, must move; otherwise, she would allow him to live with her. Claimant must have

people in his life who can check up on him, due to his seizure disorder.

DISCUSSION

1. The Lanterman Act governs this case. (§ 4500 et seq.) All issues concerning the rights of developmentally disabled persons to receive services must be decided under the appeal and "fair hearing" procedures set forth in section 4700 et seq. (§ 4706, subd. (a).)

2. Claimant requested a fair hearing to appeal SCLARC's denial of funding for rent. Jurisdiction was established. (Factual Findings 1-4.) As the party seeking services, claimant must prove that he is entitled to the funding (see § 4712, subd. (j); *Hughes v. Board of Architectural Examiners* (1998) 17 Cal.4th 763, 789, fn. 9; *Lindsay v. San Diego Retirement Bd.* (1964) 231 Cal.App.2d 156, 161), by a preponderance of the evidence (Evid. Code, § 115).

3. The Lanterman Act acknowledges the state's responsibility to provide services and supports for developmentally disabled individuals and their families. (§ 4501.) The state agency charged with implementing the Lanterman Act, the Department of Developmental Services (DDS), 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. (§ 4520.)

4. Regional centers are responsible for conducting a planning process that results in an IPP, based on a determination of which services and supports are appropriate for each consumer. (§ 4512, subd. (b).) The IPP must include goals and objectives for the client; the regional center must fund services and supports designed to "be effective in meeting the goals" articulated in the IPP. (§§ 4646, subd. (a), 4646.5, subd. (a), 4512, subd. (b), and 4648.) "Services and supports for persons with developmental disabilities" means specialized 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.” (§ 4512, subd. (b).) Services and supports listed in an IPP may include assistance in locating a home and supported living arrangements. (§ 4512, subd. (b).)

5. In deciding whether to fund a particular service or support, regional centers must consider that the consumer is responsible for funding services and supports that individuals who are not developmentally disabled typically fund. (§ 4646.4, subd. (a).) “Regional center funds shall not be used to supplant the budget of any agency that has a legal responsibility to serve all members of the general public and is receiving public funds for providing those services.” (§ 4648, subd. (a)(8); see also § 4659.)

6. In order to provide opportunities for adults to live in their own homes, regional centers provide supported living services. (§ 4689.) “Rent, mortgage, and lease payments of a supported living home and household expenses shall be the responsibility of the consumer and any roommate who resides with the consumer.” (§ 4689, subd. (h).) “A regional center shall not make rent ... payments on a supported living home,” except where certain conditions are met. (§ 4689, subd. (i).) The regional center executive director must verify “in writing that making the rent ... payments ... is required to meet the specific care needs unique to the individual consumer as set forth in an addendum to the consumer’s individual program plan, and is required when a consumer’s demonstrated medical, behavioral, or psychiatric condition presents a health and safety risk to himself or herself, or another.” (§ 4689, subd. (i)(1)(A).) The regional center may make rent payments for not more than six months, “unless the regional center finds that it is necessary to meet the individual consumer’s particular needs pursuant to the consumer’s individual program plan.” (§ 4689, subd. (i)(1)(C).)

7. In this case, claimant did not establish that the Lanterman Act requires the Service Agency to fund his rent. The conditions for requiring a rent subsidy do not exist at this time. (Factual Findings 5-11.) Generic sources of funding provide assistance with

housing; claimant has not attempted to access those sources. Moreover, the Service Agency has offered to assist with a subsidy if claimant will agree to live in a residential placement facility or an FHA home. No evidence was presented to show why any of these alternatives would not be appropriate and in accordance with claimant's most recent IPP.

LEGAL CONCLUSION

Cause was not established under the Lanterman Act to require the Service Agency to fund rental support for claimant. (Factual Findings 1-11 and Discussion.)

ORDER

Claimant's appeal is denied.

DATE:

HOWARD W. COHEN
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.