

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. 2019010375

DECISION

This matter was heard before Ji-Lan Zang, Administrative Law Judge, Office of Administrative Hearings, State of California, on April 17, 2019, in Los Angeles, California.

Karmell Walker, Fair Hearings Manager, represented the service agency, South Central Los Angeles Regional Center (Service Agency or SCLARC). Claimant's mother<sup>1</sup> represented claimant, who was present. Alma Martinez, certified court interpreter, provided language interpretation services in Spanish.

Testimony and documentary evidence was received, the record was closed, and the matter was submitted for decision on April 17, 2019.

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<sup>1</sup> Claimant and his mother are identified by titles to protect their privacy.

## ISSUE

The issue in this matter is whether Service Agency is required to fund horseback riding therapy (hippotherapy) for claimant.

## EVIDENCE RELIED UPON

*Documents.* Service Agency's exhibits 1-5; claimant's exhibits C1-C9.

*Testimony.* Ofelia Robles, Service Coordinator; claimant's mother, claimant, and Maria Sandoval.

## FACTUAL FINDINGS

1. Claimant is a 15-year-old male who qualifies for regional center services based on a diagnosis of autism. He lives with his parents and two siblings.
2. On December 7, 2018, SCLARC sent claimant a Notice of Proposed Action letter denying him his request for funding of horseback riding therapy. On January 4, 2019, claimant filed a request for a fair hearing appealing the denial.
3. According to claimant's most recent Individual Program Plan, he currently receives services through both SCLARC and his school district. At school, claimant is currently receiving 60-minute sessions of Educationally Related Intensive Counseling Services once a week. Through SCLARC, claimant's parents are currently receiving 46 hours per month of in-home respite services and 17 hours of personal assistance services.
4. Due to his disability, claimant has difficulty with social interactions. He is unable to form and maintain friendships. Claimant is able to complete some simple personal hygiene tasks, but he needs reminders to brush his teeth and requires toileting assistance. Claimant prints words and sentences, but not legibly. He reads and comprehends simple sentences and understands basic math.

Claimant displays self-injurious behaviors, such as pulling his hair, biting his fingers, and hitting himself against a wall. Claimant also displays self-stimulatory and repetitive behaviors. For example, claimant rocks himself back and forth and moves his hands frequently. Claimant does not have safety awareness skills and requires constant supervision.

5. In addition to autism, claimant suffers from depression and takes antidepressants. Since November 13, 2012, claimant has been seeing a psychiatrist, Gayane Begoyan, M.D., at the San Antonio Family Center. During the 2018 school year, claimant's self-injurious behavior escalated, culminating in an attempted suicide in August 2018. As a result of this incident, claimant was briefly hospitalized. In a letter dated April 4, 2019, Dr. Begoyan described claimant's recent behavioral issues as follows:

[Claimant] has had multiple incidents at school (anger outbursts) until the end of the year (2018) due to many schedule/staff changes at school that have triggered client's symptoms and behaviors to escalate. Mother reports that [claimant] sometimes feels irritable at school due to being bothered by peers but [claimant] has been able to manage symptoms and behaviors by using meditation/breathing to avoid conflict and ultimately has been incident free since the start of the year (2019). Mother communicated in last session (3-26-19) that [claimant] has been more stable at home but sometimes [claimant] has unprovoked anger outbursts about 1-2x per month (e.g. [claimant]

destroyed one of mother's furniture pieces about 1 month ago). (Ex. C-1, p.2.)

6. In light of these behavioral issues, Service Agency has funded both Applied Behavioral Analysis (ABA) services and mental health therapy for claimant. However, funding for ABA services was recently suspended because claimant only wanted to participate in one ABA session per week, and the ABA service vendor believed that multiple sessions per week was necessary. Claimant also has not participated in any mental health therapy because he has refused to talk to his therapist.

7. Claimant seeks horseback riding therapy because he loves animals and believes that horseback riding will ease his depression, anxiety, and behavioral issues. Claimant submitted evidence showing that horseback riding therapy would be beneficial to him. At the hearing, Maria Isabel Sandoval, a family friend who has known claimant since he was a child, testified that being with animals relaxes claimant and curbs his aggressive behavior. Claimant's mother testified that her son has rejected contact with human beings, including his ABA and mental health therapists. However, claimant allows people to talk to him when he is with animals, and claimant's mother hopes that horseback riding therapy will help her son establish social connections with people. Additionally, in a letter dated March 26, 2019, claimant's pediatrician, Jenny Zipkin, M.D., wrote. "[Claimant] loves animals and connects with them in ways he does not connect with human beings. He would benefit from animal therapy, specifically Horse Therapy if possible, to help with his mood and behavior manifestations." (Ex. C-2, p. 1.)

8. Claimant has never ridden a horse. Indeed, claimant admitted during his testimony that he is over the recommended weight limit for horseback

riding and does not know how he would be able to ride horses given his current weight. Moreover, claimant suffers from lower back pain, and he has not obtained clearance from his physician to ride horses. In fact, during a trial session of horseback riding therapy funded by Service Agency, although claimant touched and interacted with horses, he was unable to ride due to problems with his lower back.

## LEGAL CONCLUSIONS

1. The burden of proof is on the party seeking government benefits or services. (See, e.g., *Lindsay v. San Diego Retirement Bd.* (1964) 231 Cal.App.2d 156, 161 (disability benefits).) In this case, claimant bears the burden of proving, by a preponderance of the evidence, that he is entitled to funding for horseback riding therapy. (Evid. Code, § 115.)

2. Service Agency contends that, based on its review of claimant's circumstances under Welfare and Institutions Code sections 4646.4 and 4648.5, it cannot fund claimant's horseback riding therapy because the service is a social recreational activity that a parent would be required to provide for a typical child without developmental disabilities. Claimant contends that horseback riding therapy would be beneficial and alleviate some effects of his disability.

3. The Lanterman Developmental Disabilities Services Act (Lanterman Act) (Welf. & Inst. Code, § 4500 et seq.) sets forth a regional center's obligations and responsibilities to provide services to individuals with developmental disabilities. As the California Supreme Court explained in *Association for Retarded Citizens v. Department of Developmental Services* (1985) 38 Cal.3d 384, 388, the purpose of the Lanterman Act is twofold: "to prevent or minimize the institutionalization of developmentally disabled persons and their dislocation

from family and community” and “to enable them to approximate the pattern of everyday living of nondisabled persons of the same age and to lead more independent and productive lives in the community.” Under the Lanterman Act, regional centers are “charged with providing developmentally disabled persons with ‘access to the facilities and services best suited to them throughout their lifetime’” and with determining “the manner in which those services are to be rendered.” (*Id.* at p. 389, quoting from Welf. & Inst. Code, § 4620.)

4. Since July 1, 2009, Welfare and Institutions Code section 4648.5 has prohibited regional centers from funding (a) “[s]ocial recreation activities, except for those activities vendored as a community-based day programs” and/or (b) “[n]onmedical therapies, including, but not limited to, specialized recreation, art, dance, and music.” (Welf. & Inst. Code, § 4648.5, subds. (a)(2) and (a)(4).)

5. Horseback riding is typically a recreational activity, though it can also have therapeutic effects. However, there was no evidence to demonstrate that horseback riding is a medical therapy in claimant’s case. Accordingly, for claimant, horseback riding would be a social recreational activity or a nonmedical therapy, and as such, Welfare and Institutions Code section 4648.5, subdivision (a), presumptively prohibits SCLARC from funding it.

6. Welfare and Institutions Code section 4648.5, subdivision (c), however, carves out an exemption to the prohibition against funding social recreational activities and nonmedical therapies, for

extraordinary circumstances . . . when the regional center determines that the service is a primary or critical means for ameliorating the physical, cognitive, or psychosocial effects of the consumer’s developmental disability, or the service is necessary to

enable the consumer to remain in his or her home  
and no alternative service is available to meet the  
consumer's needs.

7. Claimant did not establish that extraordinary circumstances exist in this case such that the exemption would apply. The primary or critical means for ameliorating the effects of claimant's autism remains ABA therapy, as it is a proven therapeutic method of decreasing harmful or self-injurious behaviors. Although ABA therapy was suspended because of claimant's refusal to participate in multiple sessions every week, there was no evidence presented that horseback riding therapy would be effective in addressing claimant's behavioral issues. Neither has claimant presented any evidence that horseback riding therapy is necessary to enable him to remain in his home. To the contrary, the evidence on this record demonstrates that claimant is currently unable to participate in horseback riding because he is over the recommended weight limit, and because his physician has not cleared him to ride horses due to lower back pain.

8. Although interacting with horses may be beneficial to claimant, the plain and ordinary language of the exemption under Welfare and Institutions Code section 4648.5, subdivision (c), connotes a level of essentiality that requires more than a showing of an overall health benefit of a proposed therapy. Claimant did not establish that horseback riding therapy is any more beneficial than other forms of behavioral therapy, such as ABA therapy. In sum, claimant has failed to meet his burden to prove that he is entitled to the requested services, and Service Agency's denial of those services was reasonable and appropriate.

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## ORDER

Claimant's appeal is denied. SCLARC is not required to fund horseback riding therapy for claimant.

DATED:

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JI-LAN ZANG

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.