

BEFORE THE  
OFFICE OF ADMINISTRATIVE HEARINGS  
STATE OF CALIFORNIA

In the Matter of:

CLAIMANT

OAH No. 2019010998

vs.

SOUTH CENTRAL LOS ANGELES REGIONAL  
CENTER,

Service Agency.

DECISION

James Michael Davis, Administrative Law Judge (ALJ), Office of Administrative Hearings, heard this matter on April 3, 2019, in Los Angeles, California.

Claimant appeared on her own behalf, and was assisted by Rihana Holland, Supported Living Services (SLS) Provider.<sup>1</sup>

Karmell Walker, JD, Fair Hearings Manager, represented South Central Los Angeles Regional Center (Service Agency or SCLARC).

Oral and documentary evidence was received and argument was heard. The matter was submitted for decision on April 3, 2019.

ISSUE

The parties agreed the issue is whether, under the relevant law, the Service Agency must fund Claimant's request for rental support.

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<sup>1</sup> Claimant's name is omitted to protect her privacy.

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## EVIDENCE RELIED UPON

In reaching the Decision, the ALJ relied upon the Service Agency's exhibits 1- 9; and the testimony of Brittany Fair, SCLARC Services Coordinator; Rihana Holland, SLS Provider; and Claimant.

## SUMMARY

Claimant contends that, as a Lanterman Developmental Disabilities Services Act (Lanterman Act) consumer, it is her right to receive funding from SCLARC to support renting her own apartment. However, rental payments by a regional center are only permitted when, among other matters, it is a specifically-designated, unique need addressed in the consumer's individual program plan (IPP), and the rental payment would result in a net savings for the State. In this case, neither condition holds and, accordingly, Claimant's appeal must be denied.

## FACTUAL FINDINGS

### PARTIES AND JURISDICTION

1. Claimant, a 33-year-old, non-conserved female, is eligible for SCLARC services pursuant to the Lanterman Act. (Welf. & Inst.Code, <sup>2</sup> § 4500 et seq.). Claimant's eligibility arises from a diagnosis of mild intellectual disability.

2. In December 2018, the Service Agency issued a Notice of Proposed Action Letter (NOPA) to Claimant. The NOPA denied Claimant's request for rental support. Its

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<sup>2</sup> All subsequent statutory references are to the Welfare and Institutions Code unless otherwise noted.

rationale for denial was that under "SCLARC's Purchase of Service (POS) Funding Standard . . . [SCLARC] will only purchase services that address the needs or circumstances associated with the consumer's developmental disability." (Exh.t 2.) The NOPA referred to sections 4689, 4659, subdivision (a), and 4648, subdivision (a)(8), as the underlying legal basis for its decision. (*Ibid.*)

3. Claimant timely filed a Fair Hearing Request and an informal meeting was held at the Service Agency on January 25, 2019. (Exh. 3.) Failing to resolve the issue at the informal meeting, this hearing was conducted. All jurisdictional requirements have been met.

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#### INDIVIDUAL PROGRAM PLAN AND ADDENDA

4. Claimant's IPP, review date October 23, 2017, reported that Claimant lived independently, sharing an apartment with a close friend and Claimant's boyfriend. (Ex 4, p. 10 of 15.) It further reported that Claimant contributes \$100 per month toward household bills and expenses and that she hopes to save up enough money to move into her own apartment with her boyfriend, preferably in Las Vegas, which is near her boyfriend's family. The "Desired Outcome & Plan List" regarding Claimant's living arrangements is stated as not applicable.

5. The Addendum to the IPP, review date May 30, 2018, stated that Claimant currently lives independently and is in need of stable housing and employment. (Exh 5, May 30, 2018 Addendum, p. 1 of 2.) The desired outcome is that Claimant "will receive an assessment for supported living service in order to determine the type of assistance with appropriate decision making, money management, maintaining medical appointments, and basic housekeeping [is needed]." (*Ibid.*)

6. The IPP Addendum, review date June 14, 2018, stated that Claimant "lives

independently in the community and would benefit from supported living services to enhance her skills in the arenas of household maintenance, personal/health care, and budgeting/money management.” (Exh. 4, June 14, 2018 Addendum, p. 1 of 2.) The desired outcome was to have Claimant receive 60 hours of training and 40 hours of “PA”, presumably personal assistance, which also includes a 15 percent administrative fee “in order to maintain her independence and improve her overall quality of life.” (*Ibid.*)

7. The IPP Addendum, review date September 17, 2018, stated the desired outcome is that Claimant will receive SSI/SSP restoration<sup>3</sup> every quarter to assist with living expenses. (Exh. 4, September 17, 2018 Addendum, p. 1 of 2.)

8. The IPP Addendum, review date December 5, 2018, reasserted that Claimant should continue receiving supported living services of 60 hours of training and 40 hours of personal assistance per month, including a 15 percent administrative fee. (Exh. 4, December 5, 2018 Addendum, p. 1 of 2.)

9. Claimant has attained the aforementioned IPP desired outcomes. Namely, she is receiving 100 hours of monthly SLS and quarterly SSI/SSP restoration payments.

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#### HOUSING, FINANCES AND WORK

10. Claimant has experienced numerous bouts of homelessness for the last

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<sup>3</sup> SSI is Social Security Supplemental Security Income, a federal program that provides monthly funds to eligible recipients. SSP is a California-funded program that provides a supplemental payment to SSI recipients.

four years because of her preference to avoid living in a group home. For example, SCLARC has offered Claimant placement with Family Home Agency, but Claimant declined the offer. When living on her own, Claimant often rented a motel room for as long as her monthly money lasted and then moved into a shelter for the remainder of the month. (Exh. 8.) Since at least the fall of 2017, Claimant has moved in and out of homelessness in the company of her boyfriend. On April 1, 2019, Claimant moved into a shared apartment provided by Congregate Care. The apartment has four rooms and is currently shared by Claimant and her boyfriend. The monthly rent is \$750 per month. Claimant's boyfriend is unemployed and without benefits, and is therefore unable to contribute to the household costs.

11. SLS Provider Rihana Holland testified that Claimant just moved into this apartment and it is Claimant's decision as to how long she lives there. Ms. Holland characterized Claimant's request for rental support as a need to assist her with a deposit and rent for a short period of time to allow her to move with her boyfriend to her own apartment. Claimant has applied for all generic housing resources but has not yet received assistance.

12. Claimant receives a monthly stipend of approximately \$928 net from SSI and approximately \$150 net on a quarterly basis in SSI/SSP restoration payments.

13. Claimant is not currently working, although she is job searching. Claimant testified to doing some temporary work prior to becoming homeless. During the fall of 2017 through the spring of 2018, Claimant worked at Vermont Apartments through a work program administered by a non-profit organization called Arc Mid-Cities. (Exh. 9, p. 2.) Claimant's working hours there were three hours per day, five days a week at \$5.73 per hour. (*Ibid.*) Her attendance was measured at 22 percent and Arc Cities graded her productivity at 54 percent. (*Ibid.*) Since the spring of 2018, Claimant has been

uninterested in supported day program work, and has been trying, with the aid of her SLS Provider, to find gainful employment.

### CLAIMANT'S CONTENTIONS

14. Claimant contends that she has a right to live on her own. She insists that with six months' rental assistance, she would successfully find and live in her own apartment. Although Claimant just moved into the Congregate Care home, she is adamant that the home will not meet her need to live independently. She testified that she has looked on-line and found one bedroom and studio apartments for as low as \$900 per month, but those apartments still require a deposit, which she lacks. Although Claimant never sought a specific dollar amount for her rental support request, it can be inferred from the record that Claimant is looking for the equivalent of a security deposit/first and last month's rent and the difference between her current monthly rent of \$750 and the monthly rent of a new apartment for a six-month period.

### LEGAL CONCLUSIONS

#### JURISDICTION AND BURDEN OF PROOF

1. Jurisdiction was established to proceed in this matter, pursuant to section 4710 et seq., based upon Factual Findings 1 through 3.

2. The burden of proof is on Claimant to establish that the Service Agency is required to fund the requested services. (Evid. Code, § 500.) The standard is a preponderance of the evidence. (Evid. Code, § 115.) As discussed below, Claimant has not met her burden.

## CONSUMER RIGHTS UNDER THE LANTERMAN ACT

3. A consumer<sup>4</sup> has rights under the Lanterman Act which are codified in a chapter titled "Persons with Developmental Disabilities Bill of Rights." (§ 4502.) For example, a consumer has "a right to. . . supports in the least restrictive environment." (§ 4502, subd. (b)(1).) Moreover, "supports should foster the developmental potential of the person and be directed toward the achievement of the most independent productive and normal life possible." (*Ibid.*)

4. Lanterman Act services, in support of these rights, are to be provided in conformity with the consumer's IPP. (§§ 4646, subd. (d) & 4512, subd. (b).) Consumer choice is to play a part in the construction of the IPP. (§ 4646, subd. (b).)

5. The services to be provided to any consumer must be individually suited to meet the unique needs of the individual consumer in question, and within the bounds of the law each consumer's particular needs must be met. (See, e.g., §§ 4500.5, subd. (d); 4501; 4502; 4502.1; 4512, subd. (b); 4640.7, subd. (a); 4646, subds. (a) & (b); and, 4648, subd. (a)(1) & (a)(2).) Otherwise, no IPP would have to be undertaken; the regional centers could simply provide the same services for all consumers. The Lanterman Act assigns a priority to maximizing the consumer's participation in the community. (§§ 4646.5, subd. (a)(2); 4648, subd. (a)(1) & (a)(2).)

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6. The range of services provided to the consumer is extensive. Section 4512, subdivision (b), provides, in pertinent part, that:

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<sup>4</sup> A "consumer" is one who has a disability that meets the definition of a developmental disability under the Lanterman Act. (§ 4512, subd. (d).)

“Services and supports for person with developmental disabilities” means specialized services and supports or special adaptations of generic 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. *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 . . .* and shall include consideration of a range of service options proposed by individual program plan participants, the effectiveness of each option of meeting the goals stated in the individual program plan, and the cost-effectiveness of each option. Services and supports listed in the individual program plan may include, but are not limited to, . . . special living arrangements, . . . training, education, supported and sheltered employment, . . . assistance in locating a home, . . . paid roommates, . . . *supported living arrangements*, [and] technical and financial assistance[.] . . . *Nothing in this subdivision is intended to expand or authorize a new or different service or support for any consumer unless that*



*service or support is contained in his or her individual program plan.* (Italics added.)

## CLAIMANT'S APPEAL

7A. Section 4689 pertains to the issue of supported living arrangements, which is relevant here. The first part of the statute sets out general principles applicable to a case of this type: Consistent with state and federal law, the Legislature places a high priority on providing opportunities for adults with developmental disabilities, regardless of the degree of disability, to live in homes that they own or lease with support available as often and for as long as it is needed, when that is the preferred objective in the IPP. In order to provide opportunities for adults to live in their own homes, the following procedures shall be adopted:

(a) The department and regional centers shall ensure that supported living arrangements adhere to the following principles:

(1) Consumers shall be supported in living arrangements which are typical of those in which persons without disabilities reside.

(2) The services or supports that a consumer receives shall change as his or her needs change without the consumer having to move elsewhere.

(3) The consumer's preference shall guide decisions concerning where and with whom he or she lives.

(4) Consumers shall have control over the environment within their own home.

- (5) The purpose of furnishing services and supports to a consumer shall be to assist that individual to exercise choice in his or her life while building critical and durable relationships with other individuals.
- (6) The services or supports shall be flexible and tailored to a consumer's needs and preferences.
- (7) Services and supports are most effective when furnished where a person lives and within the context of his or her day-to-day activities.
- (8) Consumers shall not be excluded from supported living arrangements based solely on the nature and severity of their disabilities.
- (b) Regional centers may contract with agencies or individuals to assist consumers in securing their own homes and to provide consumers with the supports needed to live in their own homes.
- (c) The range of supported living services and supports available include, but are not limited to, assessment of consumer needs; assistance in finding, modifying and maintaining a home; facilitating circles of support to encourage the development of unpaid and natural supports in the community; advocacy and self-advocacy facilitation; development of employment goals; social, behavioral, and daily living skills training and support; development and provision of 24-hour emergency response systems; securing

and maintaining adaptive equipment and supplies;  
recruiting, training, and hiring individuals to provide personal  
care and other assistance, including in-home supportive  
services workers, paid neighbors, and paid roommates;  
providing respite and emergency relief for personal care  
attendants; and facilitating community participation.

Assessment of consumer needs may begin before 18 years of  
age to enable the consumer to move to his or her own home  
when he or she reaches 18 years of age.

7B. Based upon the foregoing, supporting Claimant's choice of living  
arrangement is a statutorily-mandated priority for the Service Agency.

8A. But, as noted in the Service Agency's NOPA<sup>5</sup> (Factual Finding 2), there are  
limits on a consumer's preferences. (See § 4689, subds. (h) & (i).) As discussed below,  
these limits bar payment of rent by a regional center, unless an exception can be found.  
Specifically, section 4689 provides:

(h) 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.

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<sup>5</sup> SCLARC also stated that its Purchase of Service Funding Standards prohibit  
granting Claimant's request. (Exh. 2.) Since those funding standards were not submitted  
in evidence, that basis for denial cannot be analyzed. Regardless, based upon SCLARC's  
statutory and regulatory prohibitions discussed below, an analysis of the funding  
standards would not change the conclusion reached in this Decision.

(i) A regional center shall not make rent, mortgage, or lease payments on a supported living home, or pay for household expenses of consumers receiving supported living services, except under the following circumstances:

(1) If all of the following conditions are met, a regional center may make rent, mortgage, or lease payments as follows:

(A) The regional center executive director verifies in writing that making the rent, mortgage, or lease payments or paying for household expenses 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.

(B) During the time period that a regional center is making rent, mortgage, or lease payments, or paying for household expenses, the supported living services vendor shall assist the consumer in accessing all sources of generic and natural supports consistent with the needs of the consumer.

(C) The regional center shall not make rent, mortgage, or lease payments on a supported living home or pay for household expenses for 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. The regional center

shall review a finding of necessity on a quarterly basis and the regional center executive director shall annually verify in an addendum to the consumer's individual program plan that the requirements set forth in subparagraph (A) continue to be met.

8B. The regulations add other cost-related limits on a regional center's ability to make or augment rent payments. The California Code of Regulations, title 17, section 58611, at subdivision (b), states:

The regional center shall not pay any costs incurred by a consumer receiving SLS in securing, occupying, or maintaining a home rented, leased, or owned by the consumer except when the executive director of the regional center has determined that:

- (1) Payment of the cost would result in savings to the State with respect to the cost of meeting the consumer's overall services and supports needs;
- (2) The costs cannot be paid by other means, including available natural or generic supports; and
- (3) The costs are limited to:
  - (A) Rental or utility security deposits;
  - (B) Rental or lease payments;
  - (C) Household utility costs;
  - (D) Moving fees; and

(E) Non-adaptive and/or non-assistive household furnishings, appliances, and home maintenance or repair costs.

9A. Here, no evidence established that supplementing Claimant's rent would meet any unique, specific need identified in Claimant's IPP or any addendum thereto. (See Legal Conclusion 8A.) Nor was there any evidence submitted regarding any net overall savings the State would realize in supplementing Claimant's rent. (See Legal Conclusion 8B.) Accordingly, SCLARC cannot legally supplement Claimant's rental payments.

9B. Claimant's housing situation stabilized in early April 2019. As set forth in Factual Finding 4 through 9, Claimant's IPP and addenda do not state that Claimant living in her own apartment is a desired goal. With an inconsistent work record (Factual Finding 13) and with protracted periods of homelessness over the last four years, continued SLS assistance and SSI/SSP restoration payments were the desired goals. Both of which were achieved. (Factual Finding 9.)

10. The specific statutory and regulatory limitations placed on a regional center regarding rental assistance harmonizes with the Lanterman Act's overarching aim of fostering a life experience for consumers that, as much as possible, parallels one of a similarly-situated, non-developmentally disabled individual: With maturity comes the understanding that monetary limitations always factor in one's choices. Claimant's IPP and addenda show a progressive approach toward facilitating her greater autonomy. Nowhere in the IPP is there a current goal that would be undercut by Claimant moving into a shared home at Congregate Care. Quite the contrary. Indeed, stabilizing her housing lays a foundation that should assist her in obtaining employment and the increased autonomy that accompanies earning a salary. Such goals are congruent with the steps that a non-developmentally disabled individual in her early 30's might

undertake. In any event, Claimant need not accept housing with Congregate Care; she is just not legally authorized to receive rental assistance from SCLARC.

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#### DISPOSITION

11. It is Claimant's burden to prove by a preponderance of the evidence that the Service Agency must fund her request for rental support. As set forth in Factual Findings 4 through 9, the Service Agency is fulfilling its requirements under the IPP and its addenda. Supplementing Claimant's rent to facilitate her moving into her own apartment does not further any specific goal of Claimant's IPP documents. Thus, as set forth in Legal Conclusion 9A, SCLARC cannot, at this time, legally support providing rental support for Claimant. Claimant's situation is evolving and this issue should be revisited at subsequent IPP meetings; but for the above-stated reasons, Claimant's request cannot be granted at this time.

#### ORDER

Claimant's appeal is denied.

DATED:

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JAMES MICHAEL DAVIS  
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.