

BEFORE THE  
OFFICE OF ADMINISTRATIVE HEARINGS  
STATE OF CALIFORNIA

In the Matter of:

CLAIMANT,

and

WESTSIDE REGIONAL CENTER,

Service Agency.

OAH No. 2019041170

DECISION

Jennifer M. Russell, Administrative Law Judge, Office of Administrative Hearings, heard this matter in Culver City, California on June 13, 2019. Lisa Basiri, M.A., Fair Hearing Specialist, represented Westside Regional Center (WRC or service agency). Mother and Father represented Claimant.<sup>1</sup>

Testimonial and documentary evidence was received, the case was argued, and the matter was submitted for decision at the conclusion of the administrative hearing. The Administrative Law Judge makes the following Factual Findings, Legal Conclusions, and Order granting Claimant's appeal.

ISSUE

Whether the service agency should continue funding specialized supervision for Claimant?

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<sup>1</sup> Claimant and Parents are not identified by their names to preserve confidentiality.

## FACTUAL FINDINGS

1. Claimant is an eight-year-old consumer of WRC based on diagnoses of Autism and Intellectual Disability. Claimant is fully ambulatory. She is verbal, although she responds with two-word phrases. She requires assistance with her self-care needs. She does not present with self-injurious behaviors. She does not initiate social interaction. During the academic year, Claimant is enrolled in a public school, where she receives special education services. Claimant is expected to attend a summer program lasting four weeks between July and August 2019.

2. Claimant along with her parents recently relocated from Las Vegas, Nevada to California. Currently, both Mother and Father are unemployed. Mother, whose most recent position was in sales, is receiving unemployment benefits, which will expire in August 2019. Father holds an inactive California occupational license. Father is currently enrolled in an online program studying information technology. With assistance from headhunters, both Mother and Father are actively searching for employment.

3. *WRC Service Standards* set forth the following guidelines for day care services:

Normal parental responsibilities will be considered in determining eligibility for day care services. Under most circumstances, when funding day or after school care services for a child under the age of 13, Westside Regional Center may pay only the cost of care that exceeds the cost of normally providing day/after-school care to a child without disabilities of the same age. The regional center may pay in excess of this amount up to the vendored rate when a family

can demonstrate a financial need and when doing so will enable the child to remain in the family home.

(Exh. 6.)

4. Due to Mother and Father's financial hardship, consistent with its *Service Standards*, WRC granted 90 percent funding for the cost of specialized supervision (or after school child care) through Ability First for Claimant at a frequency of 76 hours per month through March 31, 2019. Subsequently, WRC funding was extended for one additional month ending April 30, 2019.

5. It is undisputed that Claimant has benefitted from her participation in the programs Ability First offers. Also, because Claimant was in the care of Ability First, Mother and Father were able to interview with prospective employers. Without such continuing care, Mother and Father risk jeopardizing their job search, including their attendance and participation in interviews. They have no other reliable child care arrangement for Claimant when Claimant is not attending school.

6. By letter dated March 27, 2019, WRC informed Mother, among other things, that the percentage of WRC funding for the cost of Ability First would decrease to 35 percent beginning May 1, 2019. (Exh. 3.) On April 5, 2019, mother filed a Fair Hearing Request asking WRC not to reduce the percentage of its funding for the cost of Ability First for Claimant. Mother informed WRC that "additional time/hours to find work and [to] not hinder [Claimant's] progress" is needed. (*Ibid.*) Thereafter, this proceeding ensued.

7. At the administrative hearing, after learning the details of Mother and Father's employment histories and on-going job search, the service agency was not resistant to continuing its 90 percent funding of special supervision for Claimant until August 31, 2019.

## LEGAL CONCLUSIONS

1. As the party asserting a claim for services and supports under the Lanterman Developmental Disabilities Services Act (Lanterman Act), Welfare and Institution Code section 4500 et seq., Claimant bears the burden of proving by a preponderance of evidence her entitlement to the services and supports. (Evid. Code, §§ 115 and 500.) Claimant has met her burden.

2. 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 of life in the community.” (Welf. & Inst. Code, § 4501.) Services and supports for persons with developmental disabilities are defined as “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.” (*Id.* at § 4512, subd. (b).) Services and supports include “day care.” (*Id.*)

3. Regional centers play a critical role in the coordination and delivery of services and supports for persons with developmental disabilities. (*Id.* at § 4620 et seq.) Regional centers are responsible for taking into account individual consumer needs and preferences, and for ensuring cost effectiveness. (*Id.* at §§ 4646, 4646.5, 4647, and 4648.) To provide uniformity and consistency, regional centers are mandated to develop best practices and an internal process for use when purchasing services and supports for consumers and families. (*Id.* at §§ 4620.3, subd. (a), and 4646.4, subd. (a).)

4. Among other things, a regional center’s internal process must ensure “[c]onsideration of the family’s responsibility for providing similar services and supports for a minor child without disabilities in identifying the consumer’s service needs as

provided in the least restrictive and most appropriate settings. In this determination, regional centers shall take into account the consumer's need for extraordinary care, services, supports and supervision, and the need for timely access to this care." (*Id.* at § 4646.4, subd. (a)(4).)

5. It is undisputed that Claimant has needs for specialized supervision or day care when not in school. Claimant has benefited from this care, the disruption of which would likely undermine Claimant's developmental progress. Mother and Father are actively seeking employment to meet their parental responsibility to finance the cost of Claimant's specialized supervision or day care. A preponderance of evidence establishes that WRC's continuing funding of specialized supervision or day care for Claimant for a limited period of time ending August 31, 2019 best meets Claimant's needs consistent with the Lanterman Act's mandate.

6. By reason of Factual Findings 1 through 7 and Legal Conclusions 1 through 5, cause exists to grant Claimant's appeal.

## ORDER

1. Claimant's appeal is granted.
2. Westside Regional Center shall continue to fund the cost of Claimant's specialized supervision through August 31, 2019, at which time the parties shall consider and determine Claimant's continuing needs, if any, for the service.

DATED:

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JENNIFER M. RUSSELL

Administrative Law Judge

Office of Administrative Hearings

## NOTICE

This is a final administrative decision. This decision binds both parties. Either party may appeal this decision to a court of competent jurisdiction within 90 days.