

**BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA**

In the Matter:

CLAIMANT

vs.

GOLDEN GATE REGIONAL CENTER, Service Agency.

OAH No. 2020020947

DECISION

Administrative Law Judge Linda Pollack, State of California, Office of Administrative Hearings, heard this matter remotely on July 8, 2020.

Claimant was not present but was represented by her mother.

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

The record was left open to allow for submission of written closing arguments. Claimant's written closing argument was received on July 13, 2020, and was marked for identification as Exhibit B. GGRC did not file a written closing argument. The record closed and the matter was submitted for decision on July 13, 2020.

ISSUES

Has GGRC failed to assist claimant to apply for and obtain Medi-Cal benefits through the Pickle Amendment process?

Has GGRC failed to process the Independent Living Skills vendor application from claimant's sister to become a vendor, servicing claimant?

FACTUAL FINDINGS

1. Claimant is eligible for and receives services from GGRC.
2. Claimant's mother is claimant's conservator.

Has GGRC Failed to Assist Claimant in Applying for Medi-Cal?

3. Claimant used to receive Supplement Security Income (SSI) benefits and Medi-Cal. A person who receives SSI benefits automatically receives Medi-Cal.

4. In November 2019, claimant switched from receiving SSI to receiving Social Security Disability Insurance (SSDI). Medi-Cal is not an automatic benefit attached to SSDI. Instead, a claimant on SSDI must fill out a new application to obtain Medi-Cal. The new application is then screened for all possible program eligibilities. A person who switches from SSI to SSDI continues to receive Medi-Cal on a temporary basis under a special, temporary code (6E) until the new application is screened and processed. This process is explained in the "Pickle Amendment." The filing of a new Medi-Cal application begins the screening process.

5. An application for Medi-Cal must be filled out and signed by either the representative payee or the conservator of a claimant. The application requires personal information regarding income, taxes and property owned.

6. In March 2020, claimant's mother received a new application for Medi-Cal, due to claimant switching from SSI to SSDI in November 2019. Claimant continued to receive Medi-Cal on the temporary, 6E code basis.

7. On March 17, 2020, claimant's mother asked GGRC to complete the new application for Medi-Cal on behalf of claimant.

8. Julie Gin is a social worker at GGRC, where she has worked for the last 16 years. She holds a master's degree in social work and is also a licensed clinical social worker. Gin is familiar with claimant as she has worked with her for the last three and a half years. She took multiple actions to assist claimant's mother with the new application, pursuant to claimant's mother's request on March 17, 2020.

9. On March 17 2020, Gin called the Medi-Cal information line several times; wait times were very long and she could not reach a person.

10. On March 18, 2020, Gin called again and spoke with a representative. She learned that a new application had to be completed and signed by either the representative payee or the conservator of a claimant because of the need for personal information. Gin was not privy to this information. The Medi-Cal representative was unable to answer all of Gin's specific questions regarding claimant without a Release of Information.

11. In order to assist claimant's mother with the new application, Gin requested and received from claimant's mother, a signed Release of Information that would enable Gin to speak specifically about claimant with Medi-Cal representatives.

12. On March 23, 2020, Gin spoke with Medi-Cal representatives and confirmed that claimant had to fill out a new application, either on paper or online. The representative reiterated that GGRC could not apply for claimant. Once an application is received, a response can be expected in 45 days.

13. On March 23, 2020, Gin relayed all of this information to claimant's mother and provided a link to obtain the paper and online application.

14. Claimant's mother again demanded that GGRC apply on behalf of claimant, claiming to have spoken to someone named "Shirley" at San Mateo Human Services who told her that GGRC needed to apply on behalf of claimant. Gin requested contact information for "Shirley" so she could follow up. Claimant's mother said that she did not have her phone number because "Shirley" would not give it to her.

15. Gin made numerous phone calls and sent numerous emails to various individuals, including personnel from San Mateo County Human Services Agency, The Health Plan of San Mateo County, claimant's assigned care coordination specialist at the Health Plan of San Mateo County, and her supervisor, Christine Catabay at GGRC. Through these efforts Gin confirmed that claimant's mother, as conservator, had to fill out and sign the application.

16. On March 25, 2020, Gin relayed this information to claimant's mother, including forwarding the email from claimant's assigned care coordination specialist at The Health Plan of San Mateo County, who confirmed that claimant's mother needed to be the one to apply.

17. GGRC went online at various times and saw that a new Medi-Cal application had not been filed for claimant. On June 8, 2020, the Director of GGRC, Lisa Rosene, sent an email message to claimant's mother reiterating that GGRC could not apply for Medi-Cal on behalf of claimant and that as conservator, she needed to do this as time was of the essence since the current Medi-Cal benefits were only temporary. She stated that both she and Gin were available to answer any questions claimant's mother might have about any part of the application. In addition, she forwarded to claimant's mother an email from Catabay, Gin's supervisor, who also confirmed that claimant's mother needed to apply.

18. Claimant's mother did not contact GGRC after the June 8, 2020 email message with any questions about the application or the process.

19. GGRC has made numerous attempts to assist claimant in applying for Medi-Cal.

Has GGRC failed to process the Independent Living Skills vendor application from claimant's sister?

20. On May 29, 2020, claimant's mother sent a signed signature page, a resume and a vendor application for claimant's sister to become an independent living skills (ILS) vendor who would provide services to claimant. That same day, GGRC representative Jayashree Nathaniel, investigated whether claimant's sister could be added to the already existing vendor contract currently held by claimant's mother. If a new independent vendor application were necessary, the process could take two to six months to obtain approval.

21. On June 8, 2020, after confirming that claimant's sister could be added to the pre-existing vendor contract, GGRC representative Sarki Gyalzen contacted

claimant's mother to let her know that she could hire claimant's sister to provide ILS services to claimant. She invited claimant's mother to contact her with any questions.

22. Claimant's mother did not contact Gyalzen or anyone at GGRC about adding claimant's sister to the existing vendor contract.

23. GGRC has not failed to process the application for claimant's sister to provide ILS to claimant.

LEGAL CONCLUSIONS

1. In the Lanterman Developmental Disabilities Services Act, the State of California accepts responsibilities for persons with developmental disabilities. (Welf. & Inst. Code, § 4500 et seq.) The 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 life of the community." (Welf. & Inst. Code, § 4501.) The purpose of the scheme is two-fold: (1) to prevent or minimize the institutionalization of persons with developmental disabilities and their dislocation from family and community and, (2) to enable persons with developmental disabilities to approximate the pattern of everyday living of nondisabled persons of the same age to lead more independent and productive lives. (Welf. & Inst. Code, §§ 4501 & 4685; *Association for Retarded Citizens v. Department of Developmental Services* (1985) 38 Cal.3d 384, 388.)

2. The Department of Developmental Services is the state agency charged with implementing the Lanterman Act. It contracts with regional centers that are charged with the responsibility of providing developmentally disabled

individuals with access to services and supports best suited for them. (Welf. & Inst. Code, § 4620, subd. (a).)

3. An administrative “fair hearing” to determine the rights and obligations of the parties is available under the Lanterman Act. (Welf. & Inst. Code, §§ 4700- 4716.) Neither the Lanterman Act appeal process (Welf. & Inst. Code, § 4700 et seq.) nor its implementing regulations (Cal. Code Regs., tit. 17, § 50900 et seq.) assigns burdens of proof. Here, claimant is alleging that GGRC failed to act, therefore claimant bears the burden of proof. And, as there is no statute that provides otherwise, the standard of proof to be applied in this proceeding is the preponderance of the evidence. (Evid. Code, § 115.)

4. The matters stated in Factual Findings 9 through 18 establish that GGRC assisted claimant with her Medi-Cal application.

5. The matters stated in Factual Findings 20 through 23 establish that GGRC did not fail to process claimant’s sister’s vendor application.

ORDER

Claimant’s appeal is denied.

DATE: July 15, 2020

LINDA POLLACK

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.