

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

In the Matter of:

CLAIMANT,

vs.

SAN GABRIEL/POMONA REGIONAL CENTER,

Service Agency.

OAH No. 2020040752

DECISION

Deena R. Ghaly, Administrative Law Judge, Office of Administrative Hearings (OAH), State of California, heard this matter on July 1, 2020 via videoconference.

Daniel Ibarra, Fair Hearing Specialist, represented San Gabriel/Pomona Regional Center (SGPRC). Claimant represented herself. The hearing was held jointly with that of her brother, also a claimant.¹

¹ Claimant's brother's case, OAH No. 2020040744, involves the same issue and nearly the same facts. All parties stipulated to having both matters jointly heard. Welfare and Institutions Code section 4712.2, subdivision (b), requires separate

Oral and documentary evidence was received. The record was closed and the matter was submitted for decision on the hearing day.

ISSUE

Should SGPRC provide rental assistance funding to Claimant?

FACTUAL FINDINGS

Jurisdictional Matters

1. Claimant is a consumer at SGPRC. On a date not established by the record, Claimant requested rental assistance from SGPRC. In a Notice of Proposed Action (NOPA) dated March 12, 2020, SGPRC denied her request, citing the following provisions of the Lanterman Developmental Disabilities Services Act (Lanterman Act): Welfare and Institutions Code sections 4646, subdivision (a), 4689, and 4646.4, subdivision (a)² in support of its decision.

2. On April 11, 2020, Claimant timely filed a Fair Hearing Request (FHR) and this matter ensued.

Background

3. Claimant is a non-conserved 26-year-old woman, eligible for regional center services based on a diagnosis of Cerebral Palsy. She has some limitations in the

decisions for each claimant. A decision for OAH No. 2020040744 has issued contemporaneously with this decision.

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

use of her arms, especially for tasks requiring that she lifts them higher than her shoulders and experiences some pain and spasticity as a result of her condition. Claimant is ambulatory, able to handle almost all aspects of her personal care except those requiring holding her arms above her shoulders such as some aspects of personal grooming and reaching some zippers on clothes. She is extremely well-spoken. Recently, Claimant completed her undergraduate degree at California State University of Los Angeles in communications disorders and is seeking a license to work as an assistant speech pathologist. She has plans to pursue a graduate degree in the field.

Claimant's Individual Program Plan and Progress

4. Services and supports provided to consumers of regional centers are determined through the Individual Program Plan (IPP) process. During this process, the specific needs and preferences of the consumer are considered in the context of identifying and implementing effective, cost-effective services for her. (§ 4512, subd. (b).)

5. Claimant's last IPP is dated August 9, 2019. Among the goals identified are for Claimant to live independently and complete her education. At the time of the IPP, SGPRC committed to monitoring Claimant's living situation periodically, provided assistance and referrals as necessary, provided emergency preparedness, reimbursed transportation costs, and provided information regarding low-income housing. An IPP progress report for the quarter ending May 2020 notes that Claimant was working with SGPRC housing specialists to try to find less expensive housing because her rent was periodically increasing.

Claimant's Rental Assistance Claim

6. Claimant lives with her twin brother, also an SGPRC consumer, in a two-bedroom apartment in Pomona, California. The siblings have lived in the same apartment for the past four years. They divide their expenses equally.

7. (A) Claimant's monthly budget, including a rental increase of \$25 beginning July 1, 2020 is as follows:

Income (Social Security)	\$1,384
Rent	(\$ 869.48)
Electricity	(\$ 25.00)
Gas/Water/Trash	(\$ 30.00)
Household Items	(\$ 50.00)
Cell Phone	(\$ 70.00)
Internet Access	(\$ 30.50)
Food	(\$ 200.00)
Total	\$1274.98

(B) Transportation costs, amounting to \$110 per month, are available for reimbursed by SGPRC and therefore there is no net cost to Claimant for this item as long as she applies for reimbursement. Additionally, Claimant receives a \$15 per month food assistance grant.

8. Under the budget outlined in Factual Finding 7 above, Claimant is left with about \$124 dollars per month after paying basic expenses.

9. At the hearing, Claimant testified on her own behalf. She stated that since the onset of the current global health emergency, costs for food and necessary household items, especially cleaning supplies have increased. Electricity costs have also risen for the siblings because they are continuously in their apartment and therefore have lights and other appliances on more. No documentation of these rising costs was presented.

10. Claimant also testified that she had made every effort to secure a less expensive apartment, including applying for subsidized housing. Claimant also consulted with personnel at SGPRC who specialized in housing services and found that their resources were the same ones she had discovered while doing her own research and none of them had available units. Claimant placed herself and her brother on waiting lists for subsidized housing; however, the waiting time is likely to be years' long.

SGPRC Evidence

11. Perla Zuniga, SGPRC Adult Services Manager, testified at the hearing. Ms. Zuniga is personally familiar with Claimant and had analyzed her rental assistance funding request. She explained that, per statutory requirements and SGPRC internal policy, rental assistance was only available in rare instances and under circumstances more financially stringent than those facing Claimant. Although she recognized that her budget was very tight, leaving a cushion of \$124 per month, it was typical of cases like Claimant's and not considered an extraordinary hardship. Ms. Zuniga also stated that SGPRC personnel had counseled Claimant to find subsidized housing but

acknowledged that such housing was difficult to come by and could involve long wait times.

LEGAL CONCLUSIONS

1. The Lanterman Act governs this case. (§ 4500 et seq.) The Lanterman Act provides "[a]n array of services and supports . . . which is sufficiently complete to meet the needs and choices of each person with developmental disabilities, regardless of age or degree of disability, and at each stage of life and to support their integration into the mainstream life of the community." (§ 4501.)

2. Services and supports provided pursuant to the Lanterman Act should "enable persons with developmental disabilities to approximate the pattern of everyday living available to people without disabilities of the same age." (§4501.)

3. Of particular significance to this case, the Lanterman Act "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 individual program plan." (§ 4689.)

4. Supported living services (SLS) refer to services which assist regional center consumers to live in their own home, including choosing where and with whom to live. (Cal. Code Regs., tit. 17 (Reg.), § 58614, subd. (a).) SLS must be tailored to meet the consumer's evolving needs and preferences for support so that the consumer does not have to move from the home of her choice. (*Ibid.*)

5. There are limits to the benefits afforded by the Lanterman Act. Cost-effectiveness is an integral component of an IPP. (§ 4512, subd. (b).) Additionally, "[r]egional center funds shall not be used to supplant the budget of any agency which 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).) To that end, regional centers are required to identify and pursue all possible sources of funding for consumers receiving regional center services, including "[g]overnmental or other entities or programs required to provide or pay the cost of providing services . . ." (§ 4659, subd. (a).)

6. There are further restrictions specific to regional center-supported rent assistance. Pursuant to section 4689, subdivision (i)(1), regional centers may not contribute to consumers' rental payments unless:

(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.

7. As the party seeking a change in the status quo, Claimant has the burden of proving that the change is necessary. (Evid. Code, §§ 115 and 500.) Because no other law, including the Lanterman Act, addresses the standard of proof, it is set by the Evidence Code, and is preponderance of the evidence. (Evid. Code, §115.)

Discussion

8. Claimant's request is reasonable. Her budget is tight and even a small increase in expenses could be a hardship and jeopardize the independence she has achieved and, no doubt, helped her brother achieve. (Factual Findings 6-8.) Moreover, even without documentation, it is a matter of common knowledge that food and household products, especially cleaning agents, have increased during this global health emergency. (Factual Finding 9.) Regional centers, however, are constrained by the parameters set by the Lanterman Act. Rental assistance funding is particularly limited under its provisions. Nothing in the record here established, or even addressed, that under the Lanterman Act, rental assistance requires a showing that a consumer's "demonstrated medical, behavioral, or psychiatric condition presents a health and safety risk to himself or herself, or another." (Legal Conclusion 6.) Because Claimant's claim did not establish this requirement, her appeal must be denied as set out in the Order below.

ORDER

Claimant's appeal of the San Gabriel/Pomona Regional Center's denial of rental assistance funding is denied.

DATE:

DEENA R. GHALY

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.