

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

In the Matter of:

CLAIMANT

vs.

GOLDEN GATE REGIONAL CENTER, Service Agency.

OAH No. 2021060912

DECISION

Administrative Law Judge Traci C. Belmore, State of California, Office of Administrative Hearings, heard this matter on September 3, 2021, by videoconference and telephone.

Claimant's mother represented claimant, who was not present at hearing.

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

The record closed and the matter was submitted for decision on September 3, 2021.

ISSUE

Must Golden Gate Regional Center (GGRC) fund construction that will enclose the entrance stairway at claimant's home?

FACTUAL FINDINGS

1. Claimant is a 29-year-old consumer of GGRC, by reason of his diagnosis of cerebral palsy. Claimant lives at home with his parents. Claimant is non-ambulatory and uses a wheelchair.

2. The entrance to claimant's home is at the top of an exterior stairway. Currently, a security gate at the top of the stairway opens to a landing outside of the home. The front door of claimant's home is behind and to the right of the security gate.

3. Claimant's primary orthopedic surgeon, Eliana D. Delgado, M.D., stated claimant would benefit from an electric stair climbing cart, so that he could safely ascend the stairs to his home.

4. Claimant's parents requested that GGRC provide funding for an electric chair lift.

5. An addendum to claimant's Individual Program Plan (IPP), provided authorization to occupation therapist, Candace McGuire, for an evaluation to be done assessing claimant's need to purchase a chair lift.

6. McGuire completed her evaluation and authored a report dated April 2021. McGuire considered multiple options before recommending a chair lift for claimant.

7. GGRC obtained an estimate for the cost of installing a chair lift. As part of the estimate, the construction company noted that the security gate would need to be removed.

8. When informed that installation of the chair lift would require removal of the security gate, claimant's mother objected, saying that it "takes away the safety and security of my house." Claimant's mother then requested that GGRC provide funding for the stairway to be enclosed.

9. On June 2, 2021, claimant's planning team met, and determined that the reasons evinced by claimant's mother for construction of the stairway enclosure are not related to claimant's disability and therefore are not eligible for GGRC funding.

10. In a Notice of Proposed Action dated June 2, 2021, GGRC notified claimant that the request for funding of the stairway enclosure was denied.

11. Claimant's mother requested an informal meeting to discuss the denial. On July 2, 2021, claimant's mother met with Jayashree Nathaniel, Regional Center Services Manager. Nathaniel confirmed that the request for the stairway enclosure was regarding safety and security and was not related to claimant's disability.

12. Claimant filed a fair hearing request and this hearing ensued.

LEGAL CONCLUSIONS

1. The State of California accepts responsibility for persons with developmental disabilities under the Lanterman Developmental Disabilities Services Act (Act). The Act is found at Welfare and Institutions Code section 4500 et seq. The purpose of the Act is to rectify the problem of inadequate treatment and services for the developmentally disabled and to enable developmentally disabled individuals to lead independent and productive lives in the least restrictive setting possible. (Welf. & Inst. Code, §§ 4501, 4502; *Association for Retarded Citizens v. Department of Developmental Services* (1985) 38 Cal.3d 384.)

2. GGRC has established guidelines regarding purchasing of services. Pursuant to those guidelines, a service or support may only be purchased for a consumer if the service or support is "intended to address special needs directly related to the person's developmental disability." There are two ways to establish that the service or support is directly related to the person's developmental disability. Either the developmental disability itself is the direct cause of the condition for which the service or support is recommended or if the developmental disability itself is not the direct cause, then the absence of service or support would result in deterioration of the consumer's mental or physical health.

3. That relationship has been established for the chair lift only. Claimant's mother contends that because the chair lift is approved but can be installed only with removal of the security gate, the approval must extend to enclosing the stairway. Claimant's contention fails. The chair lift is directly related to claimant's developmental disability. Claimant has presented no evidence that enclosing the stairway is in any way related to claimant's developmental disability. In fact, claimant's mother stated that

enclosing the stairwell is needed because, "This leaves me with an open area outside my main door, posing risks for burglars and robbers to have significantly easier access into my house." In none of these statements is there a mention of claimant's developmental disability.

4. Claimant did not establish that enclosing the stairway was related to claimant's developmental disability. Accordingly, claimant's appeal must be denied.

ORDER

Claimant's appeal is denied.

DATE:

TRACI C. BELMORE

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.