

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

In the Matter of:

CLAIMANT,

vs.

NORTH LOS ANGELES COUNTY REGIONAL CENTER,

Service Agency.

OAH No. 2021120939

DECISION

Jennifer M. Russell, Administrative Law Judge, Office of Administrative Hearings (OAH), State of California, heard matter by videoconference on February 22, 2022.

Monica G. Munguia, M. A., Fair Hearing Coordinator, represented the North Los Angeles County Regional Center (NLACRC or service agency). Mother and Father, with assistance from a Spanish language interpreter, represented Claimant, who was not present. Mother, Father, and Claimant are not specifically identified to preserve their privacy and maintain confidentiality.

Testimony and documents were received in evidence, the parties made arguments, the record closed, and the matter was submitted for decision at the conclusion of the hearing.

ISSUE FOR DETERMINATION

Whether NLACRC should fund Spanish language interpretation and translation services during planning meetings in connection with Claimant's individual program plan (IPP).

FACTUAL FINDINGS

Jurisdictional Matters

1. On November 3 and December 1, 2021, Mother and Father requested the service agency to provide interpretation and translation services during program planning meetings for Claimant.
2. By letter and Notice of Proposed Action dated December 3, 2021, NLACRC denied the request stating it "would not provide an interpreter during IPP meetings due to the fact [Claimant's] IPP planning team understands and speaks Spanish fluently therefore, there is no need for an interpreter because it would represent a duplication of services." (See Exh. 4 at p. A62.)
3. On December 20, 2021, Mother and Father filed a Fair Hearing Request on behalf of Claimant.

4. On January 22, 2022, pursuant to Welfare and Institutions Code section 4712.2, the hearing in this matter was consolidated with the hearing in OAH case number 2021120936.

5. All jurisdictional requirements are met.

Claimants' Requests for Spanish Language Interpretation Services

6. Claimant's eligibility for services and supports pursuant to the Lanterman Developmental Disabilities Services Act (Lanterman Act), Welf. & Inst. Code, § 4500 et seq, although not established by the evidence at hearing, is undisputed. Claimant has an existing IPP specifying particular types and amounts of services and supports for purchase with NLACRC funds or acquisition from generic agencies or resources. Consistent with the Lanterman Act, Claimant's IPP has been translated into Spanish, which is Mother, Father, and Claimant's native language.

7. Claimant's IPP was prepared after Mother and Father participated in planning meetings staffed by planning teams consisting of NLACRC representatives, including service coordinators and case managers, as well as other appropriate subject matter specialists.

8. At hearing, Mother explained the request for NLACRC-funded language interpretation and translation services credibly testifying, "No one translates what the English speakers are saying. They will talk in Spanish but will say the wrong word in English without any translation. So, I don't understand. Or they will translate to a closely related word that changes the significance of what is being said. I cannot have a good conversation because I don't understand. I use Google Translator and I am able to see it is not what they are saying. I need a translator who can understand both

parties and me.” Mother additionally explained Claimant’s service coordinators do not speak to her “in correct Spanish.” She testified, “They speak it with many errors.”

9. Father testified, “During the meetings, people who speak Spanish are there physically but they are not supporting us.” He provided an example of how words are lost in translation. “I was confused. They told me I was going to meditation. I thought I was going to yoga. Then it turns out I was going to *mediation*. I was lost and confused.” Father’s testimony was credible.

NLACRC’s Claim Funding Spanish Language Interpreter Services is a Duplication of Services

10. At hearing, the Director of Consumer Services at NLACRC claimed providing NLACRC-funded language interpretation services during Claimant’s program planning meetings is a duplication of services in contravention of the Lanterman Act and *North Los Angeles County Regional Center Service Standards, Adopted by the Board of Trustees May 9, 2018 (Service Standards)*. (See Exhs. 11 and 12.) The director asserted Claimant’s assigned case manager is bilingual noting the case manager took “an exam in written and verbal Spanish.” The director additionally asserted Claimant’s IPP meetings are “conducted completely in Spanish” and Mother and Father are provided documents in both English and Spanish at the conclusion of IPP meetings. As set forth in Legal Conclusions 1 through 8, the director’s assertions in support of NLACRC’s determination not to fund interpretation and translation services during Claimant’s program planning meetings are rejected.

LEGAL CONCLUSIONS

1. Under the Lanterman Act regional centers, including NLACRC, play a critical role in the coordination and delivery of treatment and habilitation services and supports for persons with developmental disabilities. (Welf. & Inst. Code, § 4620 et seq.) Regional centers, including NLACRC, are responsible for the development of an IPP through a process of individualized needs determination for any person found eligible for Lanterman Act services and supports. (*Id.* at § 4646, subd. (b).) The Lanterman Act requires IPPs and the provision of services and supports to take into account and reflect the preferences and choices of regional center consumers and their families. (*Id.* at § 4646, subd. (a).)

2. The Lanterman Act directs regional centers, including NLACRC, to “communicate in the consumer’s native language, or, when appropriate, the native language of his or her family, legal guardian, conservator, or authorized representative, during the planning process for the individual program plan, including during the program plan meeting, and including providing alternative communication services, as required by Sections 11135 to 11139.7, inclusive of the Government Code and implementing regulations.” (Welf. & Inst. Code, § 4646, subd. (h)(1).) The Lanterman Act further directs regional centers, including NLACRC, to “provide alternative communication services, including providing a copy of the individual program plan in the native language of the consumer or his or her family, legal guardian, conservator, or authorized representative, or both, as required by Sections 11135 to 11139.7, inclusive of the Government Code and implementing regulations.” (*Id.* at § 4646, subd. (h)(2).)

3. Government Code section 11135 prohibits any program or activity receiving financial assistance from California from discriminating on the basis of disability, among other enumerated protected classes. Regulations implementing section 11135 specifically prohibit discriminatory practice against "Non-English speaking persons," defined to mean "persons who do not speak English or are unable to effectively communicate in English because English is not their native language." Discriminatory practice includes failing to take appropriate steps to provide multilingual employees, interpreters, and written translation. (See Calif. Code Regs., tit. 2, § 11159, et seq.)

4. The Lanterman Act requires a system for the delivery of services and supports necessary to best meet the needs and choices of individuals with developmental disabilities and their families which minimizes complexity and duplication. (Welf. & Inst. Code, § 4697, subds. (a)(3), (b)(3).)

5. As the party asserting a claim for services and supports under the Lanterman Act, Claimant bear the burden of establishing by a preponderance of evidence an entitlement to NLACRC-funded Spanish language interpretation and translation services during the program planning meetings. (See *Lindsay v. San Diego Retirement Bd.* (1964) 231 Cal.App.2d 156, 161 [disability benefit]; *Greatoroex v. Board of Admin.* (1979) 91 Cal. App.3d 54, 57 [retirement benefits]). Claimant has satisfied the burden of proof.

6. Service coordinators, case managers, and other NLACRC representatives or personnel are the regional center's agents. They are salaried or vendored to discharge their duties developing and overseeing the implementation of regional center consumers' IPPs consistent with the Lanterman Act. Their responsibilities include communicating in the native languages of regional center consumers and

consumers' families. Multilingual service coordinators, case managers, and other representatives or personnel are therefore common at regional centers, including NLACRC.

7. Claimant's service coordinators and case managers who communicate with Mother and Father in Spanish during Claimant's program planning meetings are not providing language interpretation services qua language interpretation services. They are merely engaging in communication in a nondiscriminatory manner while performing their duties as required by law.

8. Planning meetings are for the benefit of regional center consumers and their families, which explains why communication in their native language is essential. Mother and Father's credible testimony rebutted any assertion Claimant's IPP planning meetings were "conducted completely in Spanish." They testified both English and Spanish are spoken during Claimant's IPP planning meetings, which resulted in confusion. Even when Spanish was spoken, communication was at times ineffectual. For example, the meaning of words was often lost in translation and caused misunderstandings. It matters that NLACRC provided Mother and Father with documents in both English and Spanish at the conclusion of IPP planning meetings. However, it is vitally important for Mother and Father to have an accurate and complete understanding of what is occurring *during* IPP planning meetings before any document preparation. Improficient Spanish language interpretation and translation *during* claimant's IPP planning meetings present a risk of interference with Mother and Father's comprehension and, in turn, their ability to advocate for services and supports necessary to best meet Claimant's needs consistent with their preferences and choices.

9. Under these facts and circumstances, a preponderance of the evidence establishes delivery of Spanish language interpretation and translation services during

the program planning meetings to Claimant and Claimant's family are necessary for the implementation of Claimant's IPPs. There is no duplication of language interpretation or translation services in contravention of the Lanterman Act or the *Service Standards*.

ORDER

1. Claimant's appeal is granted.
2. North Los Angeles County Regional Center shall fund Spanish language interpretation and translation services for Claimant and Claimant's family (i.e., Mother and Father) during program planning meetings for Claimant's IPP.

DATE:

JENNIFER M. RUSSELL
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.