

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

**In the Matter of:**

**CLAIMANT**

**and**

**INLAND REGIONAL CENTER,**

**Service Agency**

**OAH No. 2022020401**

**DECISION**

Abraham M. Levy, Administrative Law Judge, Office of Administrative Hearings, State of California, conducted a hearing in this matter by video conference and telephone conference on March 17, 2022, due to the COVID-19 pandemic.

Claimant's mother represented claimant.

Keri Neal, Fair Hearing Representative, represented the service agency, Inland Regional Center (IRC).

The matter was submitted for decision on March 17, 2022.

## **ISSUE**

Is IRC required to reimburse claimant for the \$809 claimant's family paid for a QLock system bracket in the family van?

## **FACTUAL FINDINGS**

### **Background**

1. Claimant is a 22-year-old female. She qualifies for regional center services based on diagnoses of epilepsy and severe intellectual disability. Claimant lives at home with her parents and three siblings. She is fed through a G-tube, and she has no bowel or bladder control. Claimant is non-verbal.

Claimant is supported in the home through SSI, and her mother is her payee. She has insurance through Inland Empire Health Plan and private HealthNet insurance. She receives 283 hours per month of In-Home Supportive Services and her parents are her caregivers. Claimant also receives 50 hours per month through the HCBA Waiver. Her parents provide about 100 hours through Waiver Patient Care Services. IRC funds 60 hours per month of LVN care.

### **Request for QLock System Bracket**

2. Claimant is seeking reimbursement of \$809 for a Q-Lock Securement System ("QLock system bracket") installed in the family van to secure a new wheelchair for claimant that she obtained on December 20, 2021. Claimant's May 11, 2021, Individual Program Plan (IPP) does not state as a matter of a needed outcome that claimant required a new wheelchair with any accompanying adjustment. Claimant's

May 11, 2021, Individual Program Plan (IPP) references that she received a prescription for a new wheelchair in May 2021, The IPP does not state that she needed a new wheelchair with any accompanying adjustment.

As discussed below the QLock system bracket to secure the wheelchair in the family van was installed on January 10, 2022, without IRC's authorization.

3. On January 5, 2022, claimant's mother informed Consumer Services Coordinator (CSC) Imalay Rivera that claimant got a new wheelchair, and the wheelchair needed to be adjusted "to fit car." She asked if IRC would reimburse her. Per an email Ms. Rivera sent to Program Manager Anthony Duenez on January 5, 2022, she wrote that claimant's mother had an appointment the next day to have the wheelchair adjusted so the brackets can lock into their car. She said the cost was approximately \$670. There is no further information regarding these brackets in the emails.

4. On January 10, 2022, claimant's mother sent IRC an undated invoice from Aero Mobility in the amount of \$809 for the QLock system bracket and labor for installation. The invoice indicated that it was paid in full.

5. IRC denied claimant's request for reimbursement on January 11, 2022. Ms. Rivera left claimant's mother a detailed message regarding this denial. On January 13, 2022, IRC sent claimant a Notice of Proposed Action denying claimant's request for reimbursement of the \$809. Claimant timely requested a fair hearing.

### **Claimant's Mother's Testimony**

6. Claimant's mother testified that claimant got a new wheelchair on December 20, 2021. She mistakenly thought the cost to add the brackets to secure the

wheelchair in the van would be about \$100, which she said she was willing to pay. She was surprised at the \$809 cost Aero Mobility charged her for the QLock system bracket. She paid this sum without waiting for IRC to process her request because she didn't want to wait for the mobility company to install the equipment and because she felt the situation was urgent.

7. Claimant's mother said that although the new wheelchair was purchased on December 20, 2021, she waited to fund the QLock system bracket until after the holidays because she was busy with the holidays, and didn't have time to reach out to IRC regarding funding, and due to the COVID-19 pandemic.<sup>1</sup> She stressed that claimant needed this new wheelchair because she had outgrown her old one. Claimant's LVN Isamar Garcia testified that she had outgrown her old wheelchair. The old chair was very tight on her; her head went under the head rest; and it was very difficult to recline the chair.

## **LEGAL CONCLUSIONS**

### **Jurisdiction and Burden of Proof**

1. Any applicant for or recipient of services, or authorized representative of the applicant or recipient, who is dissatisfied with any decision or action of the service agency may request a fair hearing. (Welf. & Instit. Code, § 4710.5 subd. (a).)

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<sup>1</sup> Claimant's mother testified that she had difficulties reaching claimant's CSC. But the IRC notes indicate that her CSC was responsive and returned her calls immediately. Claimant's IPP identifies the phone numbers for both Ms. Rivera and Mr. Duenez in the event she was unable to reach Ms. Rivera.

2. The standard of proof in this case is the preponderance of the evidence. (See Evid. Code, § 115.) A consumer seeking to obtain funding for a new service has the burden to demonstrate that the funding should be provided, because the party asserting a claim or making changes generally has the burden of proof in administrative proceedings. (See, e.g., *Hughes v. Board of Architectural Examiners* (1998) 17 Cal.4th 763, 789, fn. 9.) In this case, claimant bears the burden of proof that she is entitled to receive retroactive reimbursement for the cost of the QLock system bracket.

3. 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 life of the community.” (Welf. & Instit. Code, § 4501.) These services and supports are provided by the state’s regional centers. (Welf. & Instit. Code, § 4620, subd. (a).)

4. Transportation is included in the services available to consumers listed in section 4512, subdivision (b), described specifically as follows: “transportation services necessary to ensure delivery of services to persons with developmental disabilities.” As relevant to this matter, services and supports are defined as “specialized services and supports or special adaptations of generic services and supports directed toward the alleviation of developmental disability . . . .” (*Ibid.*)

## **The IPP Process**

5. Necessary services and supports for a consumer are determined by a Planning Team through an IPP based on the needs and preferences of the consumer and/or the consumer’s family, the effectiveness of each option, and the cost effectiveness of each option. (Welf. & Instit. Code, § 4512, subd. (b).)

The IPP should identify “the type and amount of services and supports to be purchased by the regional center or obtained from generic agencies or other resources in order to achieve the individual program plan goals and objectives. . . .” (Welf. & Instit. Code, § 4646.5, subd. (a)(4).)

6. Developing the IPP is a collaborative process between a consumer, the consumer’s family, and the regional center. Section 4646, subdivision (d), articulates this process as follows:

Decisions concerning the consumer’s goals, objectives, and services and supports that will be included in the consumer’s individual program plan and purchased by the regional center or obtained from generic agencies shall be made by agreement between the regional center representative and the consumer or, when appropriate, the parents, legal guardian, conservator, or authorized representative at the program plan meeting. (*Ibid.*)

In other words, as expressed in claimant’s IPP, the IPP represents “a consensus of the goals, outcomes, and plans agreed to by the Planning Team.”

7. As part of the IPP process to identify supports and services, regional centers are required to identify and pursue all possible sources of funding for consumers receiving regional center services, including governmental entities. (Welf. and Inst. Code, § 4659, subd. (a).) Regional centers are prohibited from purchasing services available from generic resources, including other governmental entities, “when a consumer or family meets the criteria of this coverage but chooses not to pursue this coverage.” (*Id.* at subd. (c).)

## **Retroactive Authorization for Supports and Services Paid by Consumer**

8. The issue is whether claimant may be retroactively reimbursed for the QLock system bracket as an emergency vendorization. Vendorization or contracting is the process to identify, select and utilize service vendors or contractors based on their qualifications and the other requirements necessary to provide the service. (Welf. & Instit. Code, § 4648 subd. (a)(3)(A).)

Pursuant to vendorization or a contract, a regional center may “purchase services or supports for a consumer from an individual or agency that the regional center and consumer or, if appropriate, the consumer’s parents, legal guardian, or conservator, or authorized representatives, determines will best accomplish all or part of that consumer’s program plan.” (Welf. & Instit. Code, § 4648 subd. (a)(3).)

9. A regional center may reimburse an individual or agency for services or supports if “the individual or agency has a rate of payment for vendored or contracted services established by the [Department of Developmental Services] and is providing services pursuant to this division, and is providing services pursuant to an emergency vendorization or has completed the vendorization procedures or has entered into a contract with the regional center and continues to comply with vendorizing or contracting requirements . . . .” ((Welf. & Instit. Code §§4648 subd. (a)(3)(B).)

10. California Code of Regulations, title 17, section 50612, subdivision (a), provides that all services purchased out of regional center funds must be pursuant to a purchase of service authorization which shall be in advance of the provision of service. IRC in turn under its Purchase of Service Policy requires that IRC must approve services in advance of the service being provided.

The authorization must be in advance of the provision of service, except as follows, per section 50612, subdivision (b)(1), which states:

(1) A retroactive authorization shall be allowed for emergency services if services are rendered by a vendored service provider:

(A) At a time when authorized personnel of the regional center cannot be reached by the service provider either by telephone or in person (e.g., during the night or on weekends or holidays);

(B) Where the service provider, consumer, or the consumer's parent, guardian or conservator, notifies the regional center within five working days following the provision of service; and

(C) Where the regional center determines that the service was necessary and appropriate.

(Cal. Code Regs., tit. 17, § 50612, subd. (b).)

## **Evaluation and Disposition**

11. Claimant did not meet her burden of proof that she is entitled to receive retroactive reimbursement for the cost of the QLock system bracket as an emergency service per the criteria under California Code of Regulations, title 17, section 50612, subdivision (b)(1).



The circumstances of the installation of the equipment on January 10, 2022, do not suggest that installation of the Qlock system bracket met the definition of an "emergency." According to the dictionary, "emergency" is defined as "an unforeseen combination of circumstances or the resulting state that calls for immediate action" or "an urgent need for assistance or relief." ([www.merriam-webster.com](http://www.merriam-webster.com).)

Claimant purchased the wheelchair on December 20, 2021, because she outgrew her old wheelchair. Over two weeks later, on January 5, 2022, claimant's mother advised claimant's CSC that the new wheelchair needed to be adjusted to fit the family car and inquired whether IRC would reimburse her. It is noted that claimant's May 11, 2021, IPP does not identify that claimant needed a new wheelchair or adjustment to the car as an outcome or goal.

In her call to the CSC, claimant's mother did not state the bracket needed to be installed on an emergency basis, and at the hearing she also did not state there was an emergency. She further did not advise IRC she was scheduling the van to have the system installed. Without waiting for IRC to respond to her inquiry, claimant's mother had the QLock system bracket installed on January 10, 2022, and sent IRC the invoice. As an additional factor against claimant's emergency authorization request, there is no evidence that the Aero Mobility is vendored with IRC.

12. It goes almost without saying that claimant's mother has claimant's best interests in mind. It is understandable she felt claimant needed to have the bracket system installed as soon as possible, and she did not want to wait for it to be installed. But this desire to have the system installed as soon as possible does not make the need for the bracket system an emergency service that warrants circumventing both the requirement that all services purchased out of regional center funds must be done per a purchase of service authorization in advance of the provision of service, and the

process for identifying services and supports under claimant's IPP. As such, her claim for reimbursement must be denied.

### **ORDER**

Claimant's appeal of IRC's decision to deny retroactive reimbursement of \$809 for the QLock system bracket is denied.

DATE: March 24, 2022

ABRAHAM M. LEVY

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.