

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

In the Matter of:

CLAIMANT,

vs.

HARBOR REGIONAL CENTER,

Service Agency.

OAH No. 2022080189

DECISION

Ji-Lan Zang, Administrative Law Judge, Office of Administrative Hearings, State of California, heard this matter on September 16, 2022, by videoconference.

Latrina Fannin, Fair Hearing Specialist, represented Harbor Regional Center (Service Agency or HRC).

Claimant appeared and represented himself. Claimant is identified by his title to protect his privacy.

Oral and documentary evidence was received. The record was closed and the matter was submitted for decision on September 16, 2022.

ISSUE

Should Service Agency be required to fund legal services to assist claimant to obtain Deferred Action for Childhood Arrivals (DACA) status?

EVIDENCE RELIED ON

Documentary: Service Agency's exhibits 1-9.

Testimonial: Susan Methven (HRC Client Services Manager) and claimant.

FACTUAL FINDINGS

Jurisdictional Matters

1. Claimant is a 24-year-old male client of HRC. He is not conserved and qualifies for regional center services under a diagnosis of cerebral palsy (hypertonic).

2. On June 21, 2022, Service Agency sent claimant a letter denying his request to fund legal services to assist him with obtaining DACA status. (Ex. 4, p. 1.) The letter explained that under Welfare and Institutions Code (all further references are to the Welfare and Institutions Code, unless otherwise designated) section 4512, subdivision (b), Service Agency may only provide specialized services and supports for individuals with developmental disabilities. (*Ibid.*)

3. On July 18, 2022, claimant filed a request for a fair hearing. Claimant wrote in his fair hearing request, "Regional center must provide legal aid to resolve Daca [*sic*] status and continue [r]egional center services." (Ex. 2.) This hearing ensued.

Claimant's Background

4. Claimant's most recent individual program plan (IPP), dated May 31, 2022, contains Service Agency's and claimant's agreements, sets forth specific objectives and goals, and contains the services and supports to achieve them. (Ex. 4.) It also describes claimant's needs and behaviors.

5. According to the IPP, claimant was born in Mexico and brought to the United States at a young age. Claimant currently lives at home with his parents. He communicates well and is able to complete all of his self-care needs, such as showering, combing hair, brushing teeth, and dressing himself. Claimant is also able to complete basic household chores such as taking out the trash, doing laundry, and washing dishes. At home, claimant uses the wall and other items to maintain his balance when walking. In the community, claimant uses crutches or a walker to walk on his own. Claimant is in good general health, although he is blind in the left eye and requires prescription eyeglasses. He has obtained an associate degree from a local community college, and he also has a Personal Trainer Certificate. Claimant is currently working independently as Certified Personal Trainer. He would like to obtain a university degree in kinesiology, but he is unable to do so due to his undocumented status.

6. Claimant previously had DACA status, meaning he had a renewable two-year period of deferred action from deportation and was eligible for employment authorization in the United States. However, claimant's DACA status was denied after he failed to submit his DACA renewal application on time. Before his DACA denial, claimant was receiving Supportive Employment Services through Easter Seals' Customized Employment Program, but this service was paused after he lost his DACA status. Under "Plans for Support," claimant's IPP stated, "HRC will fund for Customized

Employment through Easter Seals Customized Employment Vendor #PJ 4838 Service Code 102 for 80 hours with 4/5/21 start date and 10/5/21 end date (CE service not to exceed 80 hours per 6 months). This service will resume once [claimant] is able to regain his DACA permit.” (Ex. 4, p. 5.)

Claimant’s Request for Legal Assistance

7. On January 13 and February 8, 2022, claimant’s Consumer Services Coordinator (CSC), Connie Nunez, contacted him regarding his DACA application renewal. On March 14, 2022, CSC Nunez sent another email to claimant inquiring about his DACA status. In this March 14, 2022 email, CSC Nunez also provided to claimant with the United States Citizenship and Immigration Services (USCIS) website address to check his application status. On March 15, 2022, claimant replied to CSC Nunez and notified her that he was waiting for a response from USCIS about his DACA renewal application. On the same day, CSC Nunez also emailed Easter Seals to let them know that as soon as claimant obtained DACA status, Supportive Employment Services would resume.

8. On March 31, 2022, CSC Nunez received an email from claimant requesting resources for legal assistance. CSC Nunez emailed claimant with contact information for the Coalition for Humane Immigrant Rights of Los Angeles, Central American Resource Center, and the Legal Aid Foundation of Los Angeles.

9. On June 2, 2022, CSC Nunez drove to claimant’s home to deliver a donated laptop to him. During this meeting, claimant asked the Service Agency to fund legal services to assist him with obtaining his DACA status. CSC Nunez informed claimant that HRC does not provide legal services to help individuals gain their citizenship.

10. On June 16, 2022, claimant, along with CSC Nunez, HRC's Director of Adult Services Judy Taimi, and Client Service Manager Susan Methven, participated in a Zoom meeting. At this meeting, claimant reiterated his request for HRC to fund legal services to help him obtain DACA status. HRC, through its representatives, again informed claimant that it was unable to assist claimant with this request because regional centers can provide only "services that are tied to his developmental disability." (Ex. 5, p. 8.)

Claimant's Testimony

11. At the hearing, claimant testified in a clear, sincere, and forthright manner. Claimant conceded that it was his responsibility to ensure his DACA renewal application was submitted on time. However, claimant explained he missed the deadline because his previous immigration lawyer passed away and all records of his immigration case were lost. According to claimant, he was not notified of his immigration attorney's death until months later. Claimant also testified that he missed the DACA renewal deadline because he was moving, and in his own words, "things flew past [him]."

12. Claimant's family has been struggling financially for the last two years and is unable to help him with his immigration case. Although claimant wishes to continue his education, he is unable to access many resources due to his lack of DACA status. Claimant stated that he has contacted the legal organizations CSC Nunez referred to him, but the legal aid organizations either did not respond to him or told him that his case was impossible. Claimant does not have the financial resources to hire his own immigration attorney, and he requests that HRC provide him with legal assistance to obtain DACA status.

LEGAL CONCLUSIONS

1. The burden of proof is on the party seeking government benefits or services. (See, e.g., *Lindsay v. San Diego County Retirement Bd.* (1964) 231 Cal.App.2d 156, 161.) In this case, claimant bears the burden of proving, by a preponderance of the evidence, that HRC is required to fund legal assistance for him to obtain DACA status. (Evid. Code, § 115.) He has not met that burden.

2. Based on Factual Findings 1 to 12 and Legal Conclusions 1 to 7, cause does not exist to grant claimant's appeal.

3. The Lanterman Developmental Disabilities Services Act (Lanterman Act) (§ 4500 et seq.) sets forth a regional center's obligations and responsibilities to provide services to individuals with developmental disabilities. As the California Supreme Court explained in *Association for Retarded Citizens v. Department of Developmental Services* (1985) 38 Cal.3d 384, 388, the purpose of the Lanterman Act is twofold: "to prevent or minimize the institutionalization of developmentally disabled persons and their dislocation from family and community" and "to enable them to approximate the pattern of everyday living of nondisabled persons of the same age and to lead more independent and productive lives in the community." Under the Lanterman Act, regional centers are "charged with providing developmentally disabled persons with 'access to the facilities and services best suited to them throughout their lifetime'" and with determining "the manner in which those services are to be rendered." (*Id.* at p. 389, quoting from § 4620.)

4. To comply with the Lanterman Act, a regional center must provide services and supports that "enable persons with developmental disabilities to approximate the pattern of everyday living available to people without disabilities of

the same age.” (§ 4501.) The types of services and supports that a regional center must provide are “specialized services and supports or special adaptations of generic services and supports directed toward the alleviation of a developmental disability or toward the social, personal, physical, or economic habilitation or rehabilitation of an individual with a developmental disability, or toward the achievement and maintenance of independent, productive, normal lives.” (§ 4512, subd. (b).) The determination of which services and supports the regional center shall provide is made “on the basis of the needs and preferences of the consumer or, when appropriate, the consumer’s family, and shall include consideration of a range of service options proposed by individual program plan participants, the effectiveness of each option in meeting the goals stated in the individual program plan, and the cost-effectiveness of each option.” (*Ibid.*) However, regional centers have wide discretion in determining how to implement an IPP. (*Association for Retarded Citizens, supra*, 38 Cal.3d at p. 390.)

5. As set forth in section 4646, subdivision (a):

It is the intent of the Legislature to ensure that the individual program plan and provision of services and supports by the regional center system is centered on the individual and the family of the individual with developmental disabilities and takes into account the needs and preferences of the individual and the family, where appropriate, as well as promoting community integration, independent, productive, and normal lives, and stable and healthy environments. It is the further intent of the Legislature to ensure that the provision of services to

consumers and their families be effective in meeting the goals stated in the individual program plan, reflect the preferences and choices of the consumer, and reflect the cost-effective use of public resources.

6. Section 4646.4, subdivision (a), provides, in relevant part:

Regional centers shall ensure, at the time of development, scheduled review, or modification of a consumer's individual program plan developed pursuant to Sections 4646 and 4646.5, or of an individualized family service plan pursuant to Section 95020 of the Government Code, the establishment of an internal process. This internal process shall ensure adherence with federal and state law and regulation, and when purchasing services and supports, shall ensure all of the following:

[¶] . . . [¶]

(2) Utilization of generic services and supports when appropriate. . . .

7. Here, claimant is seeking for HRC to fund legal services so that he may obtain his DACA status. Claimant is articulate, independent, and has commendable education goals. He could also clearly benefit from immigration legal services, as legal status will allow him to access more educational and employment-related resources. However, the legal services at issue are not "specialized services" within the meaning of section 4512, subdivision (b), in that they are not directed toward the alleviation of a developmental disability, and they are not generic services specially adapted for

individuals with development disability. Any undocumented person, whether with or without a developmental disability, could benefit from immigration legal services. Under these circumstances, the legal services claimant seeks are generic services, same as those that are available to the general public. (See § 4646.4, subd. (a)(2).) Accordingly, HRC's decision to deny claimant's request to fund such services was proper.

ORDER

Claimant's appeal is denied. Service Agency will not be required to fund legal services to assist claimant with obtaining his DACA status.

DATE:

JI-LAN ZANG

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.