

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

**In the Matter of:**

**CLAIMANT,**

**vs.**

**SOUTH CENTRAL LOS ANGELES REGIONAL CENTER,**

**Service Agency.**

**OAH No. 2022080356**

**DECISION**

Harden Sooper, Administrative Law Judge (ALJ), Office of Administrative Hearings (OAH), State of California, heard this matter by videoconference on October 6, 2022.

Tami Summerville, Fair Hearing Specialist, represented South Central Los Angeles Regional Center (SCLARC).

Claimant's mother (Mother) and father (Father) represented claimant, who was also present. Names are omitted to protect the privacy of claimant and his family.

The ALJ received oral and documentary evidence. The record was closed, and the matter was submitted for decision on October 6, 2022.

## **ISSUE**

Is claimant eligible under the Lanterman Developmental Disabilities Services Act (Lanterman Act) to obtain regional center funding for independent living skills services provided by 3D Supports, LLC?

## **EVIDENCE RELIED UPON**

In reaching this decision, the ALJ relied upon SCLARC's exhibits 1 through 8, claimant's exhibits A through H, and the testimony of the following witnesses: Program Manager Alberto Armenta, James De Haven, Lindsay M., Kyle M. (Brother), Father, and Mother.

## **FACTUAL FINDINGS**

### **Parties and Jurisdiction**

1. Claimant is 37 years old and lives with his parents. He is eligible for regional center services based on his diagnosis of autism. Mother is claimant's conservator.
2. SCLARC is the regional center designated by the Department of Developmental Services to provide funding for services and supports to persons with developmental disabilities under the Lanterman Act. (Welf. & Inst. Code, § 4500 et seq.)
3. On June 13, 2022, SCLARC sent Mother and Father a Notice of Proposed Action finding claimant ineligible for regional center funding of Supportive Living

Services (SLS) provided by 3D Supports, LLC (3D). The Notice stated claimant does not qualify for SLS as he does not live independently in a home he owns or leases in the community. (Ex. 3, p. A7.)

4. In a Fair Hearing Request dated July 14, 2022, Mother stated she did not request regional center funding for SLS provided by 3D. She clarified, "I requested SCLARC fund [claimant] to attend 3D Supports which is willing to render services that meet his needs." (Ex. 2, p. A3.)

5. The parties do not dispute claimant's ineligibility for SLS because he lives with his parents, rather than in a home he owns or leases. Claimant seeks regional center funding for independent living skills (ILS) services provided to claimant by 3D. SCLARC declined to fund such services because 3D is not an authorized vendor for ILS services. This hearing ensued.

### **Claimant's Request for Funding**

6. Claimant's Individual Program Plan (IPP), dated May 26, 2021, states, "[claimant] attends My Life Foundation Community Integration program . . . He participates in community integration and independent living skills training." The IPP calls for claimant to attend this program five days per week and further states claimant's Service Coordinator will request regional center funding for these services. (Ex. 5, p. A25.) The evidence did not disclose whether SCLARC funded these services. The parties do not dispute ILS services are necessary and appropriate for claimant.

7. Between the date of claimant's IPP and the date of hearing, My Life Foundation, Inc. (My Life) ceased operating. Key personnel from My Life, including James De Haven, formed a new company called 3D Supports, LLC (3D). 3D provides supportive services for adults with developmental disabilities. Mr. De Haven, who has

known claimant for at least five years, currently provides services to claimant once per week. 3D takes claimant on outings in the community and does not charge claimant for these services.

8. 3D is an authorized regional center vendor for SLS. 3D completed the vendorization process with Westside Regional Center, but at Mother's request, SCLARC also assigned 3D a vendor number. Mr. De Haven testified 3D is willing and able to provide ILS services for claimant. He noted 3D tailors the services it provides to its clients based on their individual needs, rather than whether those services are labeled SLS or ILS.

9. Claimant's request for regional center funding of ILS services provided by 3D is based on claimant's family's long-term relationship with Mr. De Haven and others at 3D. Claimant's parents trust 3D to provide quality services to claimant in a safe environment. Claimant's parents considered alternative ILS providers suggested by SCLARC and were not comfortable with any of them.

10. Due to claimant's past traumatic experiences, claimant's family justifiably has difficulty building trust with new service providers. In 2014, claimant was sexually abused by one of SCLARC's vendors. Although the evidence did not disclose the details of the abuse, SCLARC does not dispute its occurrence.

11. Four of claimant's family members testified to significant difficulties claimant experienced after he was sexually abused. Lindsay M., claimant's sister-in-law and a licensed marriage and family therapist, testified she has known claimant for 15 years and saw a "significant regression in every way" in claimant's behavior after the abuse occurred. Brother, who is also claimant's respite provider and holds a Master's degree in education with a specialist credential in autism, testified he observed a

decrease in claimant's ability to interact with other people, including his loved ones. Brother characterized the change as an inability for claimant to "perform as his best self." Father testified the abuse suffered by claimant was "very demoralizing and debilitating." In her testimony, Mother emphasized "how much more difficult [claimant's] life is" after the abuse occurred.

12. Mother, Father, and Brother all testified about the importance of 3D's services to claimant's well-being. Brother testified the 3D program is "a great program" because it's tailored to claimant's individual needs. Father testified, "[claimant] is very happy and tries very hard with these people [at 3D] and he's formed relationships at 3D." Mother testified 3D's services would make claimant's life "so much easier." She concluded, "under the circumstances of what [claimant's] been put through and gone through and survived. . .it looks like a no-brainer" to allow 3D to provide services to claimant.

## **LEGAL CONCLUSIONS**

### **Burden and Standard of Proof**

1. In a proceeding to determine whether an individual is eligible for regional center funding, the burden of proof is on the claimant to establish by a preponderance of the evidence he or she meets the proper criteria. (Evid. Code, §§ 115; 500.) A preponderance of the evidence means evidence that has more convincing force than that opposed to it. (*People ex rel. Brown v. Tri-Union Seafoods, LLC* (2009) 171 Cal.App.4th 1549, 1567.)

## Applicable Law

2. The Legislature enacted a comprehensive statutory scheme known as the Lanterman Act to provide a pattern of facilities and services sufficiently complete to meet the needs of each person with developmental disabilities, regardless of age or degree of handicap, and at each stage of life. The purpose of the statutory scheme 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. (*Association for Retarded Citizens v. Department of Developmental Services* (1985) 38 Cal.3d 384, 388.)

3. The Lanterman Act requires flexibility to meet unusual or unique circumstances. For example, regional centers are encouraged to employ innovative programs and techniques (Welf. & Inst. Code, § 4630, subd. (b)); to find innovative and economical ways to achieve goals (Welf. & Inst. Code, § 4651); and to utilize innovative service-delivery mechanisms (Welf. & Inst. Code, §§ 4685, subd. (c)(3), and 4791). Similarly, services and supports “shall be flexible and individually tailored to the consumer and, where appropriate, his or her family.” (Welf. & Inst. Code, § 4648, subd. (a)(2).) Regional centers are required to respect and support the decision-making authority of a consumer’s family; be flexible and creative in meeting the unique and individual needs of a consumer’s family as they evolve over time; and meet the cultural preferences, values, and lifestyles of the consumer’s family. (Welf. & Inst. Code, § 4685, subd. (b).)

4. To achieve the stated goals of a consumer’s IPP, regional centers are authorized to fund services either through vendorization or by entering into contracts

with service providers. For example, Welfare & Institutions Code section 4648 provides, in pertinent part, as follows:

(a)(3) A regional center may, pursuant to vendorization or a contract, purchase services or supports for a consumer from any individual or agency which the regional center and consumer or, where appropriate, his or her parents, legal guardian, or conservator, or authorized representatives, determines will best accomplish all or any part of that consumer's program plan.

(A) Vendorization or contracting is the process for identification, selection, and utilization of service vendors or contractors, based on the qualifications and other requirements necessary in order to provide the service.

(B) A regional center may reimburse an individual or agency for services or supports provided to a regional center consumer if the individual or agency has a rate of payment for vendored or contracted services established by the department, 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 the vendorization or contracting requirements. The director shall adopt regulations governing the vendorization process to be utilized by the department,

regional centers, vendors and the individual or agency requesting vendorization.

[¶] . . . [¶]

(a)(4) Notwithstanding subparagraph (B), a regional center may contract or issue a voucher for services and supports provided to a consumer or family at a cost not to exceed the maximum rate of payment for that service or support established by the department. If a rate has not been established by the department, the regional center may, for an interim period, contract for a specified service or support with, and establish a rate of payment for, any provider of the service or support necessary to implement a consumer's individual program plan. Contracts may be negotiated for a period of up to three years, with annual review and subject to the availability of funds.

[¶] . . . [¶]

(a)(6) The regional center and the consumer . . . shall, pursuant to the individual program plan, consider all of the following when selecting a provider of consumer services and supports:

(A) A provider's ability to deliver quality services or supports which can accomplish all or part of the consumer's individual program plan.



[¶] . . . [¶]

(E) The consumer's choice of providers, or, if appropriate, the consumer's parent's, legal guardian's, authorized representative's, or conservator's choice of providers. . . .

5. Regional centers shall provide ILS services to an adult consumer, consistent with their IPP, that provide the consumer with functional skills training that enables them to acquire or maintain skills to live independently in their own home, or to achieve greater independence while living in the home of a parent, family member, or other person. (Welf. & Inst. Code, § 4688.05.)

### **Claimant's Request for SCLARC to Fund 3D to Provide ILS**

6. Claimant established by a preponderance of evidence he is entitled to ILS services. The parties do not dispute ILS is a necessary and appropriate service for claimant. Claimant's IPP calls for claimant to receive community integration and ILS training five days per week.

7. Claimant also established by a preponderance of evidence 3D is the most appropriate ILS service provider for claimant. Claimant suffered an egregious violation of trust when he was sexually abused by a SCLARC vendor in 2014. For claimant to receive the benefit of ILS services as described in his IPP, he must be in a comfortable and trusted environment. 3D provides such an environment. Claimant's parents made a good faith effort to evaluate alternative service providers offered by SCLARC and did not find them acceptable alternatives to 3D. Claimant has a years-long relationship with Mr. De Haven and others at 3D, which is not replicable by simply substituting another service provider to provide ILS to claimant. To meet the unique and unusual

circumstances faced by claimant and his family, the Lanterman Act permits SCLARC to fund ILS services provided by 3D.

8. SCLARC's denial of funding for 3D based on 3D's lack of vendorization for ILS is not consistent with the Lanterman Act. Regional centers are authorized to fund services through vendorization or by entering into contracts with service providers. In this case, SCLARC is authorized to enter into a contract with 3D for ILS services, at a cost not to exceed the maximum rate of payment for ILS services established by the Department of Developmental Services.

## **ORDER**

Claimant's appeal is granted.

South Central Los Angeles Regional Center shall provide funding for claimant to receive five days per week of independent living skills services through 3D Supports, LLC, at a cost not to exceed the maximum rate of payment for independent living skills services established by the Department of Developmental Services.

DATE:

HARDEN SOOPER  
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.