

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

In the Matter of:

CLAIMANT,

vs.

FRANK D. LANTERMAN REGIONAL CENTER,

Service Agency.

OAH No. 2022110706

DECISION

Nana Chin, Administrative Law Judge, Office of Administrative Hearings (OAH), State of California, heard this matter by videoconference on January 24, 2023.

Claimant represented herself with assistance from Sara Dobinsky, Inclusion Services Supported Living Services (SLS) Supervisor. Monica Mauriz, Regional Manager (RM), represented Frank D. Lanterman Regional Center (FDLRC or Service Agency).

Testimony and documents were received into evidence. Claimant objected to admission of Exhibit 10, on the basis that the Budget was no longer current. The record was therefore held open to allow Service Agency to file Claimant's updated budget by February 3, 2023, and for Claimant to file any objection to admission of the Service Agency's filing by February 3, 2023.

Service Agency timely submitted Claimant's updated budget and a Money Management and Budget Report which were marked as Exhibits 13 and 14, respectively. No objection was received from Claimant and Exhibit 13 was admitted. Exhibit 14 was not admitted as it was outside the order allowing submission of additional evidence.

The record was closed, and the matter submitted for decision on February 3, 2023.

ISSUE

Whether the Service Agency should pay for Claimant's Costco membership.

EVIDENCE

Documentary: Exhibits 1 through 13

Testimonial: Elisa Gabriella Balmori, FDLRC Service Coordinator; Brandy Gilmore, FDLRC Service Manager; and Claimant.

FACTUAL FINDINGS

Jurisdiction

1. Claimant is a consumer of Service Agency and has requested the Service Agency pay for her Costco membership.

2. Service Agency issued a Notice of Proposed Action (NOPA) dated August 12, 2022, notifying Claimant that it was denying Claimant's request. Service Agency explained it was denying the request because: (1) Claimant did not require a Costco membership to meet the goal of her Individual Program Plan (IPP); (2) Costco membership is not a specialized support service directed toward alleviation of Claimant's developmental disability; and (3) Claimant has three generic resources available to her to pay for groceries, household expenses and/or a Costco membership card.

3. Claimant timely filed a Fair Hearing Request to appeal Service Agency's decision. In the section asking Claimant for a description of what is needed to resolve her complaint, Claimant stated, "I feel I deserve to have a Costco Card because it makes sense to have one 'cause I'll be able to buy bathroom tissue and other items there. If you compare market prices, it's more economical to get stuff @ Costco." (Exh. 2.) All jurisdictional requirements are met.

Background

4. Claimant is a conserved 62-year old consumer who is eligible for services under the Lanterman Developmental Disabilities Services Act (Lanterman Act) based upon a qualifying diagnosis of mild intellectual disability (ID). The Department of Developmental Services (DDS) is Claimant's limited conservator. (DDS was notified of the fair hearing but declined to represent Claimant at the hearing. DDS, however, did not object to Claimant proceeding with the hearing.)

5. In April 2020, Claimant moved to a home in Burbank and service coordination was transferred from the North Los Angeles County Regional Center (NLARC) to FDLRC.

6. Before Claimant's transfer to FDLRC, an Individual Program Plan (IPP) meeting was held on December 4, 2019, with Claimant, SLS staff from Future Transitions and Claimant's NLACRC consumer service coordinator (SC).

7. Claimant's goals and the supports and services were listed under "Desired Outcomes" in the IPP. Claimant's goals and supports were as follows:

Outcome 1: "[Claimant] will remain as healthy as possible by receiving routine and as-needed medical care, following her physician's orders, and maintaining a healthy diet." (Exh. 5, p. A25.) NLACRC's plan for supports included funding for SLS supports through Future Transitions.

Outcome 2: "[Claimant] would reside in her own home with necessary supports to be more independent by remaining safe in the community, maintaining her budget (Through Creative Minds Money-Management Agency . . ." (Exh. 5, pp. A26-A27.) NLACRC's plan for supports included an SLS assessment to be conducted by Future Transitions f, ongoing SLS hours and financial management services (FMS) through Creative Minds

8. After service coordination was transferred to FDLRC, Claimant, a representative from Creative Minds and FDLRC SC Balmori met on June 13, 2022, for an annual review of Claimant's IPP. At the time of the IPP, Claimant was renting a room in a home in Burbank (Burbank Home) and was unhappy with her living arrangements.

9. FDLRC subsequently began the process of locating alternative housing for Claimant. On January 12, 2023, FDLRC found an alternative home for Claimant at Glen Park House (Glen Park), a level 2 licensed community care facility.

Costco Membership

10. At the time Claimant requested FDLRC fund the Costco membership, Claimant had been living in the Burbank Home and was responsible for preparing her own meals.

11. SC Balmori submitted the request for funding, but the request was denied and the NOPA was issued.

FDLRC Contentions

12. Brandy Gilmore, FDLRC Service Manager (SM) testified at hearing. SM Gilmore is personally familiar with Claimant and reviewed her request for a Costco membership. According to SM Gilmore, FDLRC does not typically fund consumers' groceries as it is not considered to be a service or support that alleviates a consumer's developmental disability. SM Gilmore did, however, explain that during the height of the COVID-19 pandemic, FDLRC provided their consumers with food boxes and gift cards. Though there may be circumstances the FDLRC would continue to provide consumers with food supplies, the service would only be provided based on a review of an individual consumer's needs.

13. SM Gilmore explained that in reviewing Claimant's request, the Service Agency concluded that a Costco membership would not alleviate Claimant's disability; Claimant does not have an unmet need for a Costco membership and the Costco membership was not required to meet any of the goals contained in Claimant's IPP.

14. SM Gilmore further noted that since her original request, Claimant has moved into Glen Oaks. Because Glen Park provides its residents with meals, snacks, and all necessary toiletries, including toilet paper, funding Claimant's Costco

membership would also be considered a duplication of services. FDLRC is not permitted to fund duplicative services.

15. Service Agency argued in its Opening Statement and Closing Argument that Claimant lacked fiscal responsibility and purchasing a Costco membership would exacerbate that issue.

Claimant's Testimony

16. Claimant agreed that her current placement does provide meals, snacks and all her toilet paper. Claimant explained that she does not always like the meals offered at Glen Park and will not always eat the offered lunch or dinner. Claimant also likes to have her own toilet paper. Because of this, Claimant buys her own snacks and toilet paper at a local grocery store. Claimant contends she could buy those items, which are extra expenses, at Costco at a much lower price.

17. Claimant was upset by FDLRC's denial of her request for a Costco membership because she had been told by an unnamed FDLRC representative that regional centers will purchase Costco memberships for consumers. Claimant she does not understand why FDLRC is refusing to pay for her membership.

18. Claimant expressed frustration with Service Agency's contention that she is not responsible with her money. Claimant denies that this is true and considers herself very responsible with her finances.

LEGAL CONCLUSIONS

Jurisdiction

1. The Lanterman Act governs this case. (Welf. & Inst. Code, § 4500 et seq.)
(All further statutory references are to the Welfare and Institutions Code.)

2. Any consumer who is who is dissatisfied with any decision or action of the service agency which he or she believes to be illegal, discriminatory, or not in the recipient's or applicant's best interests, shall . . . be afforded an opportunity for a fair hearing." (§ 4710.5, subd. (a).)

3. Proper jurisdiction was established by virtue of FDLRC's denial of Claimant's request for funding and her Fair Hearing Request.

Standard and Burden of Proof

4. Where a change in services is sought, the party seeking the change has the burden of proving that a change in services is necessary. (See, Evid. Code, §§ 115 and 500.) The burden of proof is on the party seeking government benefits or services. (See, e.g., *Lindsay v. San Diego 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 she is entitled to funding for her Costco membership. Claimant has not met her burden.

Applicable Law

5. In enacting the Lanterman Act, the Legislature accepted its responsibility to provide for the needs of developmentally disabled individuals and recognized that services and supports should be established to meet the needs and choices of each

person with developmental disabilities. (§ 4501.) “Services and supports” 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, and normal lives and include community integration services.” (§ 4512, subd. (b).)

6. The consumer’s needs are determined through the IPP process. (§ 4512, subd. (b).) Although an IPP must reflect the needs and preferences of the consumer, a regional center is not mandated to provide all the services a consumer may request. A regional center’s provision of services to consumers and their families must “reflect the cost-effective use of public resources.” (§ 4646, subd. (a).)

Discussion

7. Claimant rightly noted that a Costco membership could be beneficial and a cost effective when compared to local stores. Claimant’s objection to Service Agency’s argument that she lacks fiscal responsibility to have a Costco membership is also valid and was not considered. Claimant has a conservator who is responsible for managing and arranging her financial affairs. Service Agency has provided no authority which would allow it to police Claimant’s spending habits.

8. However, Service Agency is limited by the Lanterman Act in providing services and supports that are directed toward alleviating Claimant’s disability, assisting Claimant in gaining new skills or abilities, or toward the achievement and maintenance of an independent life. The circumstances in which the Service Agency representative told Claimant that it could purchase Costco memberships for its

consumers is unclear. Nonetheless, Claimant did not demonstrate t she had an unmet need for the membership or that the Costco membership would help her meet her IPP goals.

9. Finally, Claimant currently resides at Glen Oaks, a facility that provides her with meals, snacks and other toiletries, funded in part by Service Agency. Though Claimant may prefer buying her own meals and toiletries, the Service Agency is required by the Lanterman Act to use regional center funds in a cost-effective manner. As FDLRC is providing funding to support Claimant’s residence at Glen Oaks, FDLRC is prohibiting from using funds to purchase a Costco membership for Claimant as it would duplicate services already being provided.

10. Claimant has not met her burden of demonstrating that she is entitled to have FDLRC fund her Costco membership.

ORDER

Claimant’s appeal is denied.

DATE:

NANA CHIN

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.