

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

In the Matter of the Appeal of:

CLAIMANT,

vs.

NORTH LOS ANGELES COUNTY REGIONAL CENTER,

Service Agency.

OAH No. 2023020458

DECISION

Thomas Heller, Administrative Law Judge (ALJ), Office of Administrative Hearings (OAH), State of California, heard this appeal by videoconference on April 14, 2023.

Claimant was represented by Marlene Lueck of Stand Out Advocates. The names of Claimant and his family members are omitted from this decision to protect their privacy.

Cristina Aguirre represented North Los Angeles County Regional Center (NLACRC).

After the hearing, the ALJ held the record open for the parties to submit additional proposed exhibits, which were marked and admitted without objection. After the submissions, the record closed and the matter was deemed submitted for decision on April 25, 2023.

ISSUE

Is NLACRC in compliance with a prior administrative decision ordering it to provide certain funding and reimbursement for Claimant's services and supports?

EVIDENCE RELIED UPON

Documents: NLACRC exhibits 1-37; Claimant's exhibits A-X. Testimony: Robin Monroe; Jimena Martinez; Stephanie Margaret; Claimant's mother.

FACTUAL FINDINGS

Background and Procedural History

1. NLACRC determines eligibility and provides funding for services and supports to persons with developmental disabilities under the Lanterman Developmental Disabilities Services Act (Lanterman Act). (Welf. & Inst. Code, § 4500 et seq.; undesignated statutory references are to this code.)

2. Claimant is a 16-year-old male who is eligible for Lanterman Act services and supports from NLACRC based on a diagnosis of autism spectrum disorder. He participates in the Self-Determination Program (SDP), under which he and his family

have an annual budget for services and supports to meet the objectives of Claimant's Individual Program Plan (IPP). (See § 4685.8.)

3. In May 2022, during an IPP and SDP meeting, Claimant's parents requested to continue the same services and supports from Claimant's 2021-2022 SDP budget in his 2022-2023 SDP budget with the addition of Adaptive Skills Training services and Summer Camp. Claimant's consumer services coordinator at NLACRC requested documentation to support the need for the continued services and to assess the need for and appropriateness of the additional services. Claimant's parents submitted what NLACRC considered insufficient documentation, and NLACRC did not agree to the continued or added services. NLACRC offered to carry over the existing services into Claimant's 2022-2023 SDP budget for six months to give Claimant's parents more time to submit additional documentation and for NLACRC to complete its assessments of need. Claimant's parents did not accept the offer and declined to sign the six-month SDP budget. Claimant then filed a hearing request to appeal NLACRC's action.

4. On August 30, 2022, ALJ Joseph D. Montoya heard the appeal. The issues were: (1) was the 2021 IPP binding although it was never signed; (2) should the IPP be modified to add Adaptive Skills Training; and (3) should NLACRC reimburse Claimant's parents, who asserted they had been paying for Claimant's services due to the lack of agreement on an IPP or SDP budget. On September 30, 2022, ALJ Montoya granted Claimant's appeal in part, ordering NLACRC and Claimant to proceed as follows:

1. Claimant's appeal is granted in part. The Service Agency shall provide six months of SDP funding, consistent with the 2021 SDP budget and IPP, commencing within 15 days of the effective date of this decision.

2. The Service Agency shall reimburse Claimant's parents for expenditures they have made to maintain his services, from June 3, 2022, the costs to be consistent with the 2021 SDP budget and IPP. Claimant's parents shall provide documentation of their expenditures.

3. The parties shall reconvene an IPP and budget meeting within 30 days of the effective date of this order. The Service Agency shall fund, if necessary, for a further [Adaptive Skills Training] report, and a report from the social skills provider shall be obtained. Mother shall provide a work schedule, and shall obtain medical records from Claimant's doctor for discussion and review.

4. If the parties cannot arrive at an agreement for a new IPP and SDP budget within 120 days of the effective date of this decision, one party or the other shall initiate another fair hearing process, with an eye toward holding a hearing within six months of the effective date of this decision.

(Exhibit 2, pp. A54-55.)

5. Claimant contends NLACRC has not complied with items one, two, and four of the order by failing to provide and fund a six-month SDP budget; failing to reimburse Claimant's parents for expenditures made to maintain services from June 3, 2022; and failing to agree to a new IPP and SDP budget. Claimant filed a fair hearing request dated January 27, 2023, requesting orders for NLACRC to comply with these items. At that time, Claimant also contended NLACRC had violated item three of the

order to reconvene an IPP and budget meeting, but the parties' dispute about that item has since been resolved.

Hearing on Appeal

NLACRC'S EVIDENCE

6. NLACRC contends it has complied with the order, but it has been unable to reimburse Claimant as ordered in item two due to inadequate documentation of Claimant's expenditures. As to item one, Robin Monroe, the supervisor of the Self-Determination Program at NLACRC, identified exhibit 5 as the budget and funding in place for Claimant. The budget was fully signed as of October 19, 2022, but Monroe testified the funds have been available to Claimant for billing under that budget since October 16, 2022, when the budget was approved. According to Monroe, while there have been delays in Claimant accessing the budget, those delays have been due to service code and other errors in Claimant's spending plan, not due to any action or inaction of NLACRC. The errors in the spending plan have now been resolved, and everything is set up for invoices to be paid "back to the start date of the [spending] plan." (Exhibit 35, p. A245.)

7. As to item two of the order, Monroe and Jimena Martinez, a Consumer Service Coordinator with NLACRC, testified that some invoices Claimant's mother submitted for reimbursement – such as invoices for attorney fees for Individualized Education Program (IEP) self-advocacy – were inconsistent with the 2021 SDP budget. (Exhibits 6 [budget] & 10-11 [invoices].) Other invoices – such as those for family counseling – were for services rendered before June 3, 2022, which are ineligible for reimbursement under the order. (Exhibit 9.) In addition, NLACRC has not received

adequate documentation of the expenditures as to many of the invoices that are consistent with the budget and time frame of the order.

8. Stephanie Margaret, the Contract and Compliance Supervisor for NLACRC, testified that reimbursement requires a purchase of service authorization and proof of payment, with details that include the date of purchase, the name of the entity providing the purchased services, the service details such as the date or hours provided, and the cost of the service. Many of the invoices submitted did not include an accompanying proof of payment, such as a receipt. But for invoices totaling \$5,100 that had accompanying proof of payment, NLACRC has approved reimbursement and is prepared to issue payment once Claimant signs and returns a reimbursement agreement with NLACRC. (Exhibit 25.)

9. NLACRC and Claimant agree that item three in the order has been satisfied. NLACRC contends it has also satisfied item four because the parties have now agreed to a new IPP and SDP budget.

CLAIMANT'S EVIDENCE

10. As to item one, Claimant argues NLACRC has not funded the six-month budget as ordered. The budget and the funding were not available within 15 days of the order as required. There have been no actual payments to Claimant's family under the budget, and Claimant's mother testified she continues to pay out of pocket for Claimants' services and supports. According to Claimant's mother, there is always a problem with every invoice submitted for payment, and NLACRC continues to put up unreasonable roadblocks to payment.

11. As to item two, NLACRC has not reimbursed any amounts for Claimant's expenses since June 3, 2022. The only recent reimbursements are for amounts paid

years ago. Claimant's mother believes NLACRC is asking for too much documentation, far more than is required for reimbursement from Claimant's financial management service (FMS) provider under the SDP. Claimant should only be required to submit the expense documentation required for payment from an FMS provider under the SDP, which is simply an invoice for the services. Furthermore, NLACRC is taking an overly narrow view of what is consistent with the 2021 SDP budget and IPP. Claimant has incurred over \$48,000 on expenses that should be reimbursed. (See Exhibit 18 [spreadsheet of expenses].) Claimant can provide proof of payment for those expenses, but Claimant's mother believes what Claimant has already submitted is sufficient for reimbursement.

12. As to item three, Claimant agrees with NLACRC that the parties' dispute has been resolved. As to item four, the parties agreed to a new IPP and SDP budget only a few weeks ago, not within 120 days as contemplated in the order.

Analysis of Evidence

13. The evidence does not support a finding that NLACRC is in violation of the order. As to item one, NLACRC's evidence shows the budget and funding are in place and available to Claimant, and the past impediments to Claimant accessing that funding are resolved. Claimant may now receive payment for qualifying invoices "back to the start date of the [spending] plan." (Exhibit 35, p. A245.)

14. As to item two, NLACRC is not violating the order by requiring a receipt or other proof of payment before reimbursing Claimant's family for expenditures for services. The order requires Claimant to provide "documentation of their expenditures" (exhibit 2, p. A55), which NLACRC has reasonably interpreted to include proof of

payment. Furthermore, Claimant's mother testified she can provide that proof of payment.

15. Claimant also challenges NLACRC's determinations that some of the invoices submitted are ineligible for reimbursement because they are inconsistent with the 2021 SDP budget or were incurred before June 3, 2022. But Claimant's evidence about those invoices does not show any error of NLACRC in making the determinations. Item two of the order authorizes reimbursement for services consistent with the 2021 SDP budget incurred on or after June 3, 2022, and not all of Claimant's invoices are for such services.

16. The parties' dispute as to item three has been resolved. As to item four, the parties have now agreed to a new IPP and SDP budget. While it took longer than 120 days, the delay in reaching agreement is not a violation. The order states Claimant may request another fair hearing if no agreement is reached within 120 days, not that the parties must agree within 120 days.

LEGAL CONCLUSIONS

1. The Lanterman Act provides services and supports to meet the needs of persons with developmental disabilities, regardless of age or degree of disability. (§ 4501.) "'Developmental disability' means a disability that originates before an individual attains 18 years of age, continues, or can be expected to continue, indefinitely, and constitutes a substantial disability for that individual. . . . [T]his term shall include intellectual disability, cerebral palsy, epilepsy, and autism. This term shall also include disabling conditions found to be closely related to intellectual disability or to require treatment similar to that required for individuals with an intellectual

disability, but shall not include other handicapping conditions that are solely physical in nature.” (§ 4512, subd. (a)(1).) “‘Services and supports for persons with developmental disabilities’ means 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 an independent, productive, and normal life.” (§ 4512, subd. (b).)

2. Claimant contends that NLACRC has violated ALJ Montoya’s order, and he has properly exercised his right to appeal. (See §§ 4700-4716.) As the party seeking relief, Claimant has the burden of proof. (Evid. Code, § 500; see *Lindsay v. San Diego County Retirement Board* (1964) 231 Cal.App.2d 156, 161.) This burden of proof requires proof by a preponderance of the evidence, because nothing in the Lanterman Act or another law provides otherwise. (Evid. Code, § 115 [“Except as otherwise provided by law, the burden of proof requires proof by a preponderance of the evidence.”].) A preponderance of the evidence means “‘evidence that has more convincing force than that opposed to it.’ [Citation.]” (*People ex rel. Brown v. Tri-Union Seafoods, LLC* (2009) 171 Cal.App.4th 1549, 1567.)

Analysis

3. The evidence presented does not prove NLACRC is in violation of the order. As to item one, the budget and funding are in place and available to Claimant, and the past impediments to Claimant accessing that funding have been resolved. As to item two, NLACRC is not violating the order by requiring a receipt or other proof of payment before reimbursing Claimant’s family for expenditures for services. Claimant’s evidence also does not show any error of NLACRC in determining that some of the

invoices submitted are ineligible for reimbursement. The parties' dispute as to item three has been resolved, and the parties have now agreed to a new IPP and SDP budget, which resolves item four.

ORDER

Claimant's appeal is denied.

DATE:

THOMAS HELLER

Administrative Law Judge

Office of Administrative Hearings

NOTICE

This is the final administrative decision. Each party is bound by this decision. Either party may request a reconsideration pursuant to subdivision (b) of Welfare and Institutions Code section 4713 within 15 days of receiving the decision, or appeal the decision to a court of competent jurisdiction within 180 days of receiving the final decision.