

**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. 2023070755

DDS No. CS0008411

DECISION

Thomas Heller, Administrative Law Judge (ALJ), Office of Administrative Hearings (OAH), State of California, heard this appeal by videoconference on September 13, 2023.

Claimant was represented by her mother. Their names are not used in this decision to protect their privacy.

Paul Mejia, Due Process Officer, represented North Los Angeles County Regional Center (NLACRC).

The matter was submitted for decision on September 13, 2023.

ISSUE

Should NLACRC be ordered to pay for Claimant's family to move out of state due to NLACRC's alleged deprivations of Claimant's rights?

EVIDENCE RELIED UPON

Documents: NLACRC exhibits 1-21, 23; Claimant's exhibits A-F. Witness testimony: (1) Evelyn Molina for NLACRC; and (2) 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.)
2. Claimant is a 13-year-old female who is eligible for Lanterman Act services and supports based on diagnoses of unspecified intellectual disability and epilepsy. Claimant lives with her mother and father, and her mother is her authorized representative in this appeal.
3. As of the hearing date, NLACRC authorized funding of up to 45 hours per month of licensed vocational nurse respite for Claimant, plus up to six hours per

weekday of licensed vocational nurse daycare (with a \$1 shared cost). But shortly before the hearing, NLACRC proposed to terminate Claimant's eligibility for services effective October 7, 2023, due to an inability to schedule an overdue Individual Program Plan (IPP) review with Claimant's mother. That proposed termination is not an issue in this appeal.

4. On July 17, 2023 – before receiving notice of the proposed termination – Claimant's mother submitted the appeal at issue in this case. According to the appeal, NLACRC refused to help advocate for Claimant at school and refused to provide an appropriate stander device and an appropriate wheelchair for Claimant's mobility challenges. The appeal also alleged: a pediatric physician who was allegedly NLACRC's chief executive intentionally caused Claimant's disability and "tortured her for over a decade;" a nurse sexually abused Claimant "as a form of intimidation" by the pediatric physician, and NLACRC would not help Claimant after the abuse; NLACRC erased all of its files for Claimant before 2019; and Claimant is now denied care at all major hospitals in the area. (Exhibit 1, pp. A2-4.)

Hearing on Appeal

NLACRC'S EVIDENCE

5. Evelyn Molina is a Consumer Services Coordinator Supervisor for NLACRC. Molina testified NLACRC has funded two stander devices for Claimant. Claimant's mother gave away the first stander after concluding it was the wrong size for Claimant. Claimant's mother did not consult with NLACRC on the decision to give it away. The second stander was funded and delivered to Claimant in May 2023. Before delivery, the vendor physically measured Claimant to determine the correct size of stander to supply.

6. Claimant's mother believes the second stander is too big, and Molina has tried to schedule an IPP meeting with Claimant's mother to address that concern. Under the Lanterman Act, the IPP for every active case "shall be reviewed and modified by the planning team . . . as necessary, in response to the person's achievement or changing needs, and no less often than once every three years." (Welf. & Inst. Code, § 4646.5, subd. (b).) But Claimant's mother has thus far refused to meet with NLACRC for review of Claimant's IPP, either in person or virtually. Molina is prepared to work with Claimant's mother to assess Claimant's current needs, but the IPP review process is necessary to do that.

7. NLACRC denies the other allegations in the appeal and considers them beyond the scope of the hearing. The pediatric physician whom Claimant's mother accuses of abuse (Edward Bloch, M.D.) has never worked for NLACRC. NLACRC has tried to provide Claimant with the services and supports she needs, but there have been problems communicating with Claimant's mother. In February 2022, Claimant's mother used obscene and demeaning language directed at the Consumer Services Coordinator for Claimant, which prompted NLACRC to send a letter directing Claimant's mother to refrain from inappropriate contact with NLACRC employees.

CLAIMANT'S EVIDENCE

8. Claimant's mother testified she is no longer pursuing a new stander for Claimant because a new one is being provided by the ombudsperson for the Department of Developmental Services. Therefore, the stander is a moot issue. (Exhibit A, p. B2.) Claimant also has a wheelchair that was paid for by the family's insurance, and Claimant's mother is therefore not requesting a different wheelchair from NLACRC.

9. The relief that Claimant's mother requests now is monetary compensation from NLACRC to move the family out of state. Claimant's mother can no longer tolerate "the deprivation of [Claimant's] State and Federal rights due to the corruption in [NLACRC]." (Exhibit A, p. B2.) Claimant's mother wants to move the family out of state to get better care for her daughter and to get away from the alleged abuse of NLACRC and others. Representing herself, Claimant's mother has sued NLACRC, the County of Los Angeles, Bloch, and others for at least \$150 million in damages related to the alleged abuses. That case is pending in Los Angeles Superior Court.

Analysis of Evidence

10. Claimant's mother is no longer pursuing any issues regarding the stander or the wheelchair. In any event, the evidence shows that NLACRC has acted reasonably in its efforts to supply a stander for Claimant, and there is no evidence in the record of any wrongdoing of NLACRC with respect to the wheelchair.

11. According to Claimant's mother, what remains at issue are the alleged wide-ranging deprivations of Claimant's rights by NLACRC and others. The evidence does not prove those allegations. The testimony of Claimant's mother was conclusory and uncorroborated, and the documents she presented do not prove the allegations. All but two of those documents are pleadings she filed in this case or in the superior court case, which contain unsupported allegations, not proof of facts. (Exhibits A, C-E.) The other documents are a narrative statement of claims against various persons and entities, and an order determining an administrative complaint of Claimant's mother in 2019 against a school district was insufficient. (Exhibits B, F.) Nothing in the documents or Claimant's testimony justifies a finding of wrongdoing by NLACRC or an award of monetary compensation from NLACRC for the family to move out of state.

LEGAL CONCLUSIONS

Legal Standards

1. The Lanterman Act provides services and supports to meet the needs of persons with developmental disabilities, regardless of age or degree of disability. (Welf. & Inst. Code, § 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.” (Welf. & Inst. Code, § 4512, subd. (a)(1).)

2. “‘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.” (Welf. & Inst. Code, § 4512, subd. (b).) “The determination of which services and supports are necessary for each consumer shall be made through the individual program plan process . . . 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.*)

3. Claimant's mother contends that NLACRC should pay monetary compensation for the family to move out of state, and she has filed a fair hearing appeal on Claimant's behalf. (See Welf. & Inst. Code, §§ 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

4. The evidence does not prove Claimant is entitled to the relief requested. The costs of moving Claimant's family to another state are not a form of "services and supports" under the Lanterman Act. (Welf. & Inst. Code, § 4512, subd. (b).) But even if they were, nothing in the record justifies a finding of the wrongdoing alleged in this appeal. The testimony of Claimant's mother about that alleged wrongdoing is conclusory and uncorroborated, and the documents presented also do not prove any of the alleged wrongdoing.

5. Claimant is currently facing termination of her eligibility for services from NLACRC under a Notice of Action effective October 7, 2023. Nothing in this decision affects Claimant's right to appeal that Notice of Action as specified in the Lanterman Act (Welf. & Inst. Code, § 4700 et seq.).

ORDER

Claimant's appeal is denied.

DATE: 09/27/2023

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.