

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

**In the Matter of:**

**Claimant,**

**vs.**

**Kern Regional Center, Service Agency.**

**OAH No. 2023090084**

**DDS No. CS0009107**

**DECISION**

Chris Ruiz, Administrative Law Judge, Office of Administrative Hearings (OAH), State of California, heard this matter on September 27, 2023, via Zoom videoconference.

Jimmy Alamillo, Fair Hearing Officer, represented Kern Regional Center (Regional Center or RC).

Claimant was represented by his mother. Claimant's and his family member's names are not used to protect their privacy.

Testimony and documentary evidence was received. The record closed and the matter was submitted for decision on September 27, 2023.

## **ISSUE TO BE DECIDED**

Should RC be ordered to fund the repair damage of Claimant's bedroom?

## **FACTUAL FINDINGS**

### **Jurisdictional Matters**

1. Claimant is eligible to receive RC supports and services because of his diagnosis of Autism. Claimant is a 34-year-old conserved male. Claimant's grandfather is his conservator.

2. Claimant lives with his mother in a rented home. At times, when he becomes frustrated or agitated, Claimant releases those feelings by damaging his bedroom. For example, Claimant has made holes in the drywall on his bedroom walls and has damaged the door jamb.

3. On November 4, 2022, Claimant requested RC fund the cost to repair damage to Claimant's room, which was caused by Claimant. RC requested Claimant provide cost estimates, or bids, for the repairs to Claimant's room. RC informed Claimant that generic resources would need to be utilized for this request and that permission from the landlord is needed before any repairs could occur.

4. On April 26, 2023, Claimant e-mailed an estimate prepared by a contractor. The estimate identified the total repair cost of \$5,618.00 to fix Claimant's room.

5. Thereafter, the RC contacted the Kern RC Foundation (Foundation) and requested that the Foundation fund the repairs at issue. The Foundation declined RC's request.

6. On June 27, 2023, RC sent a Notice of Action which denied Claimant's request to repair damage to Claimant's bedroom. RC denied Claimant's request because home repairs are not considered specialized or adaptive services and do not conform to RC's Purchase of Service (POS) policy guidelines. Further, RC stated the repairs would not ameliorate Claimant's developmental disability and generic resources have not been exhausted to address Claimant's behaviors. RC suggested behavioral intervention services could be accessed for Claimant through private insurance. Lastly, RC stated Claimant is presently conserved and one of the conservator's granted powers is to fix Claimant's residence.

7. On August 15, 2023, Claimant filed an appeal, which requested an administrative hearing.

8. Claimant's most recent Individual Program Plan (IPP) meeting was held on March 22, 2023. At the time, the parties discussed Claimant's behavior, which requires constant supervision. The IPP report contained the following information under the Outcomes section:

Property Destruction: [Claimant] will reduce incidents of property destruction (e.g., punching holes in the wall, tearing off his bedroom doors, throwing items) to no more than one per week during the next 12 months. Baseline: Currently, [Claimant] exhibits property destruction two times per week. His room has numerous holes in the walls

of his bedroom that are so deep, the electrical wires have been exposed.

9. On July 20, 2023, the parties agreed to an IPP Addendum which increased Claimant's in home respite by 90 hours per month. Claimant's behavior was not discussed at that time.

10. In the past, Claimant's behavioral issues were aggravated by dental pain and gall bladder pain. Since those issues were resolved by medical professionals, Claimant's behavioral issues have been reduced.

11. It was not established that behavioral services, such as Applied Behavioral Analysis (ABA), would have any effect on the present condition of Claimant's room.

12. Claimant's mother testified that in 2010, when Claimant was released from Fairview Developmental Center, a Superior Court Judge ordered RC to pay for "everything." However, Claimant did not offer any court order into evidence.

13. In 2014, RC paid to repair Claimant's room for similar damages. However, RC underwent management changes thereafter because management was paying for items outside of the POS policy.

14. RC's POS policy (Exhibit 9, page 41) discusses the purchase of durable medical equipment. In that section, the following is stated,

As a rule, KRC does not purchase equipment that is intended to become a permanent fixture *and does not provide funds for construction, modification or alteration of real or personal property* to accommodate equipment.

However, such purchases may be considered, in individual circumstances, as an exception to this policy. (Emphasis added.)

## **LEGAL CONCLUSIONS**

1. Pursuant to the Lanterman Act, regional centers are required to provide consumers with treatment and habilitation services and supports that foster the developmental potential of the person and be directed toward the achievement of the most independent, productive, and normal lives possible. (Welf. and Inst. Code section 4512, subdivision (b).)

2. Pursuant to Welfare and Institutions Codes section 4512, subdivision (b), services and supports listed in the individual program plan may include, but are not limited to, diagnosis, evaluation, treatment, personal care, daycare, domiciliary care, special living arrangements, physical, occupational, and speech therapy, training, education, supported and sheltered employment, mental health services, recreation, counseling of the individual with a developmental disability and of the individual's family, protective and other social and sociolegal services, information and referral services, follow-along services, adaptive equipment and supplies, advocacy assistance, including self-advocacy training, facilitation and peer advocates, assessment, assistance in locating a home, childcare, behavior training and behavior modification programs, camping, community integration services, community support, daily living skills training, emergency and crisis intervention, facilitating circles of support, habilitation, homemaker services, infant stimulation programs, paid roommates, paid neighbors, respite, short-term out-of-home care, social skills training, specialized medical and dental care, telehealth services and supports, supported living

arrangements, technical and financial assistance, travel training, training for parents of children with developmental disabilities, training for parents with developmental disabilities, vouchers, and transportation services necessary to ensure delivery of services to persons with developmental disabilities.

3A. Pursuant to Welfare and Institutions Code section 4512, the RC must, at the time of development, scheduled review, or modification of a consumer's individual program plan, ensure that any funding requests for services and supports conforms with the regional center's purchase of service policies, utilize available generic resources for any service or support need, and *consider the family's responsibility for providing similar services and supports for a person without disabilities in identifying the consumer's service and support needs.* (Emphasis added.)

3B. Therefore, Claimant's family is responsible for providing similar services and supports for Claimant that a person without disabilities would require. Families with no members who have disabilities sometimes incur expenses caused by family members. These can include wrecked vehicles, broken windows, and many other types of damage to real or personal property. For example, two siblings could be wrestling, or fighting, and cause damage to drywall. Further, many households have had to repair broken windows, or even walls, due to horseplay or caused by misaimed baseballs, footballs, or basketballs.

4. While the damage to Claimant's room was caused by his disability, it is the type of expense that is common in families with both disabled and non-disabled persons. As such, the cost to repair and maintain Claimant's room is the responsibility of his family.

## **ORDER**

Claimant's appeal is denied.

DATE:

CHRIS RUIZ

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.