

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

In the Matter of:

Claimant,

vs.

Frank D. Lanterman Regional Center,

Service Agency.

OAH No. 2023090197

DDS. No. CS0009132

DECISION

Carmen D. Snuggs-Spraggins, Administrative Law Judge, Office of Administrative Hearings (OAH), State of California, heard this matter by videoconference on November 13, 2023.

Jessica Franey, Attorney at Law, Waterson Huth & Associates, appeared and represented Frank D. Lanterman Regional Center (FDLRC or Service Agency).

Matthew Kanin, Attorney at Law, appeared and represented Claimant, who was present throughout the hearing. (Claimant is not identified by name to protect her privacy.)

The administrative law judge (ALJ) heard testimony and received documentary evidence. At the conclusion of the fair hearing on November 13, 2023, the ALJ determined additional documentary evidence was necessary to render a final decision in this matter.

On November 14, 2023, the ALJ issued a Continuance Order for Evidence Only, directing the Service Agency to submit page two of Exhibit 11, or in the alternative, a declaration stating why page 2 of the exhibit cannot be submitted, by uploading the document to Case Center by 5:00 p.m. on November 20, 2023. Claimant was directed to upload any objection or any other response to the Service Agency's submission, to Case Center by 5:00 p.m. on November 27, 2023.

The Service Agency timely submitted Exhibit 11, which was marked as Exhibit No 15. Claimant did not submit an objection or response to Exhibit 15 and, therefore, Exhibit 15 was admitted.

The record closed and the matter was submitted for decision on November 27, 2023.

ISSUE

Should the Service Agency fund Claimant's entire share of costs for residing at Glen Park-Mariposa Residential Facility?

EVIDENCE RULED UPON

Service Agency's exhibits 1-15, Claimant's Exhibits A-F, and the testimony of Karla Lopez, Service Coordinator, Brandy Gilmore, Glendale Regional Manager, and Claimant.

Jurisdictional Matters

1. Claimant is a 62-year-old consumer of the Service Agency. She receives services under the Lanterman Developmental Disabilities Services Act (Welfare and Institutions Code section 4500 et seq., referred to as the Lanterman Act), based on her diagnosis of mild intellectual disability.

2. Claimant lives at the Glen Park-Mariposa Residential Facility (Glen Park) in Glendale, California.

3. On July 17, 2023, Claimant requested that FDLRC pay her monthly share of cost for rent at Glen Park in the amount of \$1,324.82, beginning in August 2023. She alleged that she needed this assistance due to her limited budget.

4. On July 25, 2023, Claimant submitted a budget to her FDLRC Service Coordinator (SC), Karla Lopez, which indicated that her monthly expenses included a cell phone bill of \$118.88. She also submitted a list of needs that included depilatory services in the amount of \$22, and haircut and hair coloring services in the amount of \$100.

5. In a Notice of Action (NOA) dated July 26, 2023, FDLRC notified Claimant that her request was denied for the reasons set forth more fully below.

6. Claimant's appeal of the NOA was received on August 22, 2023.

7. On August 23, 2023, Claimant participated in a telephonic informal meeting with Syuzanna Mejlumyan, FDLRC's Regional Manager and the Executive Director's Designee, to discuss Claimant's appeal. Claimant provided additional information regarding her monthly expenses, funds received from the Social Security

Administration (SSA) and her Supplemental Security Income (SSI), and employment opportunities, as set forth more fully below.

8. Following the informal hearing, the Service Agency upheld its decision to deny funding Claimant's share of cost, and this hearing ensued.

Background

9. On June 23, 2014, the Director of the Department of Developmental Services (DDS) was appointed Limited Conservator of Claimant's person and estate. On May 9, 2019, the limited conservatorship of Claimant's estate was terminated; however, the limited conservatorship of Claimant's person remained in effect.

10. Claimant receives \$559.80 per month in monthly social security disability benefits, and SSI payments of \$953.82 per month, for a total of \$1513.62. She also receives \$188 for Personal and Incidental (P&I) expenses from the SSA.

11. Claimant moved to Glen Park in January 2023. Glen Park is a Level 2 assisted living facility. The ALJ takes official notice that Level 2 facilities provide care, supervision and incidental training to residents who have some self-care skills and do not engage in maladaptive behaviors.

12. According to the January 17, 2023 Admission Agreement Rate Pages (Admission Agreement) executed by FDLRC, Creative Minds (Claimant's former third-party payee), and a Glen Park Representative, Claimant has a private room at Glen Park at a rate of \$6,747. Of that amount, the Regional Center is responsible for paying \$5,422.18. At that time, Claimant, through her third-party payee, was responsible for paying \$1,512.82 per month.

13. The rates listed in the Admission Agreement are based upon DDS's Schedule of Maximum Allowances, which "may be adjusted periodically by [DDS]." (Ex. 15.) Any obligation of FDLR to pay "in excess of the basic SSI rate is expressly made contingent upon [FDLRC] receiving and continuing to receive funds from [DDS] for the purpose of paying any additional rate." (*Ibid.*)

14. The Admission Agreement also states:

8. [Glen Park] agrees to provide the services described above during the prescribed time frame. The obligation of the Regional Center to make payments in excess of the basis SSI rate is contingent upon provision of care and services identified in the Resident's [Individual Program Plan], the provision of this agreement, the vendor agreement, applicable regulations, and the Regional Center approved program design.

(Ex. 15.)

Claimant's Individual Program Plan

15. On a date not made clear by the record, Claimant moved to FDLRC's catchment area from the North Los Angeles County Regional Center catchment area. Claimant's initial Individual Program Plan (IPP) meeting was held on February 3, 2023. Claimant, SC Lopez, and Glen Park's Assistant Director participated in the meeting.

16. Claimant's Desired Outcome #1 was to live outside the family home in a "clean, safe, and supportive home environment." (Ex. 5, p. A38.) Claimant will live at

Glen Park until she achieves her goal of living independently in her own apartment. Until then, Glen Park is the most appropriate and least restrictive living environment.

17. Claimant agreed to use SSI funds toward the cost of living at Glen Park and contribute to the state assessment “for their share of cost for residential costs” at Glen Park. (Ex. 5, p. 38.) In addition, Claimant agreed to authorize Creative Minds to apply her SSI funds as agreed. Creative Minds was responsible for providing Claimant \$188 per month in P&I funds from July 1, 2022, to June 3, 2023. Glen Park agreed to ensure Claimant’s daily living needs were met, and that she had sufficient opportunities to engage in preferred activities at home and planned social recreational outings or events in the community.

18. Because it is Claimant’s goal to live independently in her own apartment, FDLRC agreed to fund 10 hours for its vendor Quantum House to conduct a housing needs assessment between December 19, 2022, and March 31, 2023.

19. Claimant’s Desired Outcome #2 was to participate independently in typical activities of daily living (ADLs) such grocery shopping, maintaining good personal hygiene, and maintaining a healthy diet and healthy relationships with others. FDLRC agreed to fund 80 hours of supported living services (SLS) from September 1, 2022, through August 31, 2023, so that Claimant could learn new skills to become more independent.

20. FDLRC agreed to fund 135 hours for personal assistant services (PAS) and 100 miles of transportation services through vendor Right at Home from February 20, 2023, to July 31, 2023, in support of Claimant’s Desired Outcome #3 to participate in structured and meaningful day activities to build on her independent living skills. Desired Outcome #3 included Claimant’s participation in paid work activities once or

twice per month testing various products and completing surveys about them. PAS supports were to be used to assist Claimant with accessing the community for grocery shopping and attending doctor appointments. Claimant could also use PAS for transportation to complete the surveys. The IPP indicates Claimant would also use public transportation to commute to and from a work program and to complete the surveys.

21. According to Claimant's IPP, Desired Outcome #4 was for Claimant to engage in activities and outings with others at Glen Park and in the community. Claimant's SLS provider was to ensure that she had opportunities to engage in preferred activities at home and planned social recreational outings or events in the community.

22. Claimant's Desired Outcome #5 was to remain in good physical and dental health.

FDLRC'S QUARTERLY REVIEWS OF CLAIMANT'S IPP

June 2023

23. On June 23, 2023, FDLRC held a quarterly review meeting regarding Claimant's IPP. Claimant, SC Lopez, and Glen Park's Executive Director attended the meeting.

24. Claimant reported that she liked living at Glen Park. She receives three meals and snacks per day. Glen Park offers Claimant alternatives if she is not satisfied with the food.

25. At that time, Claimant was receiving \$23 per month in CalFresh benefits. The CalFresh program, formerly known as the Food Stamp program, provides monthly

food benefits to individuals who meet federal income eligibility rules. Creative Minds was no longer Claimant's third-party payee; FDLRC had assumed that role.

26. FDLR offered Claimant employment services, but she declined them because she previously experienced discrimination by her managers while employed. Claimant reported that she had conducted product surveys once or twice per month in Calabasas or Encino, California. Claimant was paid an average of between \$30 and \$40 per survey.

27. According to the quarterly review report (Exhibit 8) Claimant's prior third-party payee representative, Marina Finks with Creative Minds, reported to SC Lopez that Claimant was irresponsible with finances and spent her money on unnecessary items.

28. The quarterly review document described Claimant as being well-groomed and having good hygiene. It is noted that Claimant often chose to eat out. She can independently use public transportation, but needs assistance with grocery shopping, medical appointments, money management and laundry.

29. Claimant reported being dissatisfied with her SLS representative and terminated services with the SLS vendor. SC Lopez was in the process of obtaining PAS or SLS vendors who could drive Claimant into the community to complete product surveys and search for apartments.

30. Claimant expressed a desire to continue to complete product surveys for additional income. She was in the process of completing a survey for fabric softener and expected to be paid \$100 when she completed testing the product and the survey. She had completed surveys once or twice per month and was paid between \$30 and \$40.

31. FDLRC agreed to fund: 80 percent of Glen Park's rate for a Level 2 room from December 29, 2022, to November 30, 2023; 80 hours per month of SLS from January 9, 2022, to August 31, 2023 (Claimant terminated the services); and 12 days per month of money management services through vendor Creative Minds from July 1, 2022, to June 30, 2023 (the services were terminated as of June 23, 2023).

September 2023

32. FDLRC conducted a quarterly review meeting of Claimant's IPP on September 1, 2023. Claimant, SC Lopez, FDLRC's Glendale Regional Manager (RM) Brandy Gilmore, and Glen Park's Executive Director and Chief Operating Officer attended the meeting.

33. Claimant continued to receive \$188 per month in P&L payments. Her CalFresh benefits were increased to \$252 per month. FDLR, as Claimant's third-party payee, paid Glen Park Claimant's monthly share of costs in the amount of \$1,324.82. FDLRC's share of Glen Park's \$6,747 rate continued to be \$5,422.18.

34. Although it was determined that Claimant continued to need money management services, she continued to deny the services because she believes it is a private matter for her to handle herself. Claimant denied Ms. Finks's allegations that she was irresponsible with money and spent money on unnecessary things.

35. On August 23, 2023, SC Lopez referred Claimant to vendor Modern Support Services regarding an apartment that had become available in the city of Glendale. Claimant initially agreed to move forward with an application for the apartment but changed her mind because the apartment was on the third floor, and it was not close enough to the city. Claimant has been on the waitlist for Monumental Rental since June 22, 2023. In the meantime, she was provided with a list of affordable

apartments in the city of Los Angeles. SC Lopez continues to consult with FDLRC's Housing Specialist regarding low-income apartments and housing resources for Claimant.

36. Claimant reported that she was scheduled to complete a product survey on September 23, 2023, for which she expected to be paid \$50. SC Lopez referred Claimant to three employment services agencies, but after speaking with representatives from each of the companies, Claimant decided she did not want to work with them. She agreed to work with an independent living skills (ILS) vendor instead. Claimant would like to obtain a part-time job in an office or the mall.

37. Claimant likes to go to malls in Burbank, Glendale, Sherman Oaks, and Northridge. Of all activities, she reported enjoying eating out the most, but she is unhappy about not having enough money to eat where wants. SC Lopez referred Claimant to food banks and food drives in the area. Glen Park's Executive Director offered to arrange a driver to take Claimant to the food drives if Claimant notifies her in advance of the events.

38. FDLR agreed to fund its share of Glen Park's rate from July 1, 2023, to December 31, 2023; up to 40 hours per month of ILS services through vendor Custom Learning Services, from September 25, 2023, to March 31, 2024; a monthly LA Metro TAP card for Claimant to ride Metro buses and rail; and monthly P&I payments of \$188, from July 1, 2023, to December 31, 2023.

39. Claimant's IPP was amended on September 10, 2023, to indicate Claimant's share of costs for Glen Park is \$1,324.82, she will continue to use her TAP card to access the community, she will use public transportation to and from an

individual work program, and she will be able to participate in the same community-based activities and with the same organizations that are available to all individuals.

Service Agency's Evidence

40. SC Lopez has been Claimant's service coordinator since December 2022. She is familiar with Glen Park and the services it provides. Glen Park provides a variety of services such as medication management, free wi-fi, indoor and outdoor recreational activities, assistance with making appointments, transportation to appointments, and low-cost hair trimming and hair coloring. Glen Park can also accommodate its residents who adhere to special diets by providing vegan or low sodium meals. Claimant has a refrigerator and microwave in her private room.

41. FDLRC is assisting Claimant with locating affordable housing. However, she has rejected several apartments because they are not close enough to shopping and bus stops. Claimant has not mentioned to SC Lopez that she rejected the apartments due to safety concerns. Claimant prefers to live in Pasadena, Glendale, Burbank, or La Canada, although it has been explained to her that housing in those areas is expensive.

42. SC Lopez explained that generic resources are available for Claimant to use to meet any need not met by Glen Park. Claimant's CalFresh benefits fluctuates between \$230 to \$275 per month. She currently receives \$275 per month in CalFresh benefits. In SC Lopez's experience, it is unusual for an individual in the CalFresh program who resides in an assisted living facility to receive the amount of benefits Claimant receives since it is assumed the facility will meet the individual's needs. Claimant can use her CalFresh benefits to purchase items at the grocery store and eat at restaurants.

43. SC Lopez explained that Claimant is also able to use her P&I payments to purchase beauty services, hygiene products, her preferred food, and for transportation to access the community. In addition to the money Claimant makes by completing surveys, she occasionally critiques movies and receives \$5 in cash for every critique. FDLRC is aware that Claimant last completed a survey in September for \$50.

44. Claimant can also earn money from a part-time job to pay for incidentals. FDLR has agreed to fund ILS services, so that Claimant can receive assistance with job searching and accessing the community. Claimant is currently on the wait list for Campbell Center, an employment services agency.

45. FDLRC is assisting Claimant with finding affordable housing. She is currently on the waitlist for obtaining U.S. Department of Housing and Urban Development (HUD) rental housing (Section 8). FDLRC's housing specialist can and is identifying affordable apartments in the community. Claimant can also use ILS services to search for and apply for housing.

46. It is SC Lopez's understanding from her conversations with Claimant that she goes out into the community almost every day. Claimant's TAP card is unlimited.

47. According to SC Lopez, because of Claimant's history of overspending and running out of money, FDLRC offered at the June 2023 quarterly review meeting to fund money management services for Claimant. Claimant can use the services to help her create a spending plan and budget her money. FDLRC also offered the services because Claimant was previously the victim of an online financial scam. However, Claimant was offended at FDLRC's offer of these services, and contended that she is capable of managing her money and did not want to be treated like a child.

48. After the June 2023 quarterly review meeting, Claimant made her request for FDLRC to fund Glen Park's entire cost because she needed additional funds to pay for her hair cell phone, eyebrow and underarm waxing, and haircuts and coloring. SC Lopez met with supervisor and others to discuss Claimant's request. FDLRC asked Claimant for a budget sheet to understand why Claimant could not pay for the items and services herself, and to explore possible supports and services that would allow Claimant to increase her income.

49. FDLRC suggested Claimant apply to the government for a free phone, as she may be able to receive an iPhone or Samsung cell phones if determined to be eligible. The Service Agency also recommended Claimant seek out a beauty school, where she can obtain haircuts and coloring and waxing services for less, or use the services offered by Glen Park. Glen Park has a cosmetologist who is either on site or comes to facility and provides haircuts and coloring. FDLRC again offered money management and employment services. Claimant was not happy with the suggestions.

50. FDLRC has provided Claimant with other supports and services to supplement her P&I payments and CalFresh benefits. They provided Claimant two \$25 gift cards to Ralph's grocery store. Although Glen Park provides transportation services, the Service Agency has made exceptions and funded taxi services for Claimant to attend doctor's appointments and travel to sites to complete product surveys. SC Lopez explained that the exceptions were made because Claimant's doctors are in Woodland Hills and taking the bus or train would take too long, or the weather was inclement. In addition, when Claimant was completing a product survey in Calabasas, a taxi would get her there faster than a bus or the rail system, and it would have been dark outside when Claimant completed her work.

51. FDLRC supported Claimant in the beginning of 2023 by providing a \$200 voucher to her to purchase work clothes. More recently, the Service Agency provided Claimant with a \$300 JC Penney voucher to purchase winter clothes. SC Lopez explained that FDLRC does not typically provide these vouchers to consumers residing in an assisted living facility because their needs are fulfilled by the facility or by using P&I funds. However, because FDLR was understanding of Claimant's needs, they made an exception for her. The Service Agency has also provided Claimant with a food box that contained, among other things, salad, and peanut butter.

52. SC Lopez asserted that FDLR has tried to accommodate Claimant as much as they can by providing extra support that consumers residing in assisted living facilities typically do not receive.

53. RM Gilmore became familiar with Claimant when Claimant transferred to FDLRC from the NLACRC and has met Claimant in person "a few" times. She has also interacted with Claimant via telephone and e-mail. RM Gilmore communicates with Claimant on average once or twice every two weeks. She speaks with Claimant on the phone from 30 minutes to an hour but does not typically do that with all Service Agency clients. RM Gilmore described Claimant as a good self-advocate and as having a good personality.

54. RM Gilmore met with SC Lopez and FDLR's Executive Director regarding Claimant's funding request. Claimant's request was denied for three reasons. First, the Service Agency is the payor of last resort. If a generic resource is available, Claimant needs to utilize that resource first before regional center funds are considered for direct funding. Second, training and supports provided by FDLRC must be aligned with Claimant's IPP goals, and the funds must be spent toward the public good. Third,

FDLRC cannot supplant SSI funds. Claimant must use SSA and SSI funds toward her share of costs for Glen Park.

55. Claimant has generic resources in the form of P&I funds that must be used towards her incidental expenses. FDLRC has offered supports to help Claimant reach her IPP goals by funding employment services, ILS, connecting her with the Department of Rehabilitation, transportation services, and clothing vouchers for work appropriate clothing. The supports were provided for the purpose of making Claimant as eligible for employment as anyone in the general public.

56. FDLRC has determined that Claimant does not need additional funding to achieve her IPP goals. With the supports and services, the Service Agency has agreed to fund and the exceptions FDLRC has made regarding transportation services and vouchers, FDLRC believes Claimant should be able to reach her stated IPP goals.

57. RM Gilmore disagrees that Claimant does not have sufficient funds to pay for food, adequate nutrition, and personal upkeep, as Glen Park provides Claimant with meals, internet access, utilities, laundry services, housekeeping, basic toiletries such as soap and toothpaste, and social recreational activities. Claimant rejected suggestions that she use Glen Park's cosmetologist services or obtain the services from a retail chain such as Fantastic Sam's or a beauty school, which would be more cost effective. However, RM Gilmore acknowledged that there is a degree of personal choice and trust involved in selecting groomers and hair care providers.

58. RM Gilmore offered the opinion that Claimant can afford everything she wants and needs in terms of personal grooming when considering the amount of her P&I payments and CalFresh benefits, and the support from FDLRC. She does not

believe Claimant will be alienated because of her personal hygiene if FDLRC does not pay Claimant's share of costs for Glen Park.

59. After Claimant filed her appeal, her representative proposed that instead of paying Claimant's entire share of costs to reside at Glen Park, FDLRC increase its share of costs from 80 percent of Glen Park's rate to between 81 and 90 percent. RM Gilmore met with SC Lopez and FDLRC's Associate Director of Adult Services and she consulted with FDLRC's revenue manager regarding Claimant's proposal. The revenue manager is a specialist who works on a consumer's case when FDLRC is a consumer's payee. According to RM Gilmore, the revenue specialist knows "all the ins and outs" of SSI and P&I funds. FDLRC's and Claimant's share of costs are based upon Claimant's SSA award and the amount of her P&I payment, which is calculated by DDS.

60. Claimant's SSI documents, DDS directives, and SSA rates for 2023 were reviewed. FDLRC determined that they cannot negotiate Claimant's P&I payments because FDLRC would have to notify the SSA, and if the SSA became aware that Claimant's discretionary funds were increased because FDLRC paid more than 80% of Glen Park's share of costs, it would result in a decrease in Claimant's SSA and SSI awards. RM Gilmore explained that any additional funds paid by the Service Agency would be considered income or in-kind support or benefits to Claimant. Therefore, supplementing Claimant's share of costs would not improve Claimant's standard of living because at the very least, her P&I payments would be reduced.

61. FDLRC can provide and has provided supplemental support to Claimant in a way that will not affect her public benefits by offering, among other things, transportation services, a TAP card, clothing vouchers, and by funding employment services. FDLRC also has a Help Fund that is funded by employees and others to assist consumers with short-term emergencies. A committee meets and reviews Help Fund

requests, which are granted based upon need and available funds. The Help Fund has been used to provide Claimant with food gift cards and a Target store gift card during the holidays.

62. RM Gilmore estimated that Claimant's SSI payment is approximately \$1,500 now and that it will be reduced to \$1,300 when she obtains independent living housing. However, because there will be a significant decrease in Claimant's housing costs, she will have more to spend on incidentals and personal items.

63. FDLRC offered to continue providing Claimant with supplemental support in the ways described by SC Lopez and RM Gilmore.

Claimant's Evidence

64. Claimant was previously the beneficiary of a Special Needs trust. However, the trust was terminated on July 1, 2022, due to depletion.

65. When Claimant previously received support from Marina Finks with Creative Minds, Ms. Finks assisted Claimant with paying all of her bills, including her cell phone and rent. Ms. Finks would give Claimant \$120 to spend on personal items. If Claimant wanted extra money, she would email or call Ms. Finks, and if extra funds were available, Ms. Finks would provide it to her. Claimant would like to continue working with Creative Minds.

66. Claimant contends that her personal needs exceed \$188 per month. She has decreased the amount she spends on her cell phone to approximately \$60 per month, and her grooming expenses are \$144 per month. Claimant further contends that she needs \$500, at a minimum, in disposable income and that with \$600 in disposable income she can live comfortably.

67. Claimant states that she does not like the food at Glen Park because it has no flavor and that her nutritional needs are not being met. She would like to feed herself food that is flavorful and fulfilling. Claimant frequents Carl's Jr., Jack-N-the Box, and Chik-fil-A where she spends between \$8 and \$11. She can limitedly use her CalFresh benefits at Carl's Jr. and Jack-N-the Box. No evidence was presented regarding the limits on the use of CalFresh benefits at fast food restaurants. Claimant eats out for lunch or buys snacks every day. She estimated that she spent \$5 per day for food.

68. Claimant would like to get her hair cut and her eyebrows and underarms waxed on regular basis. She gets her eyebrows waxed every six to seven weeks for between \$22 and \$35. Claimants gets her hair cut and colored every two months for \$100. Claimant contends that her grooming services must be provided by a licensed cosmetologist on a regular basis, otherwise she will appear disheveled.

69. Claimant learns of opportunities to complete surveys online. She is paid either in cash or by check. Claimant can choose when she completes the surveys and is notified when she completes the survey whether she qualifies for payment.

LEGAL CONCLUSIONS

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

2. Because Claimant seeks a change in the status quo on the issue of payment of her share of costs for residency at Glen Park, she has the burden of proving that a change is necessary. (Evid. Code, §§ 115 and 500.) The standard of proof in this case requires proof by a preponderance of the evidence, pursuant to Evidence

Code section 115, because no other law or statute requires otherwise. "Preponderance of the evidence" means evidence which is of greater weight or more convincing than evidence which is offered in opposition to it. (*Glage v. Hawes Firearms Co.* (1990) 226 Cal.App.3d 314, 324.)

3. An administrative hearing to determine the rights and obligations of the parties is available under the Lanterman Act to appeal a contrary regional center decision. (§§ 4700-4716.) Claimant timely requested a hearing following the Service Agency's denial of her request for Service Agency to pay her entire share of costs, and therefore, jurisdiction for this appeal was established.

4. A regional center is required to secure services and supports that meet the individual needs and preferences of consumers. (§§ 4501 and 4646, subd. (a).)

5. Section 4512, subdivision (b), provides, in part:

The determination of which services and supports are necessary for each consumer shall be made through the individual program plan process. The determination shall be made on the basis of the needs and preferences of the consumer or, when appropriate, the consumer's family, 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. . . .

6. Section 4646, subdivision (a), provides, in pertinent part:

It is the further intent of the Legislature to ensure that the provision of services to consumers and their families be effective in meeting the goals stated in the individual program plan, reflect the preferences and choices of the consumer, and reflect the cost-effective use of public resources.

7. Section 4648 provides:

In order to achieve the stated objectives of a consumer's individual program plan, the regional center shall conduct activities including, but not limited to, all of the following:

(a) Securing needed services and supports.

(1) It is the intent of the Legislature that services and supports assist individuals with developmental disabilities in achieving the greatest self-sufficiency possible and in exercising personal choices. The regional center shall secure services and supports that meet the needs of the consumer, as determined in the consumer's individual program plan, and within the context of the individual program plan, the planning team shall give highest preference to those services and supports which would allow minors with developmental disabilities to live with their families, adult persons with developmental disabilities to live as independently as possible in the community, and that allow

all consumers to interact with persons without disabilities in positive, meaningful ways.

8. Section 4648, subdivision (a)(8):

Regional center funds shall not be used to supplant the budget of any agency which has the legal responsibility to serve all members of the general public and is receiving public funds for providing those services.

9. The Lanterman Act requires regional centers to control costs in its provision of services. (§§ 4640.7, subd. (b), 4651, subd. (a), and 4659.) Consequently, while a regional center is obligated to secure services and supports to meet the goals of each consumer's IPP, a regional center is not required to meet a consumer's every possible need or desire but must provide a cost-effective use of public resources.

10. Section 4646.4 provides, in pertinent part:

(a) Regional centers shall ensure, at the time of development, scheduled review, or modification of a consumer's individual program plan developed pursuant to Sections 4646 and 4646.5 . . . , the establishment of an internal process. The internal process shall ensure adherence with federal and state law and regulation, and if purchasing services and supports, shall ensure all of the following:

(1) Conformance with the regional center's purchase of service policies, as approved by the department pursuant to subdivision (d) of Section 4434.

(2) Utilization of generic services and supports if appropriate, in accordance with the following:

[1] . . . [1]

(3)(A) Utilization of other services and sources of funding as contained in Section 4659.

[1] . . . [1]

(5) Commencing October 1, 2022, consideration of information obtained from the consumer and, if appropriate, the parents, legal guardian, conservator, or authorized representative about the consumer's need for the services, barriers to service access, and other information.

11. California Code of Regulations, title 17 (CCR), section 56902, subdivision (a), provides that "[p]roposed residential rates shall be determined for a specific target fiscal year in accordance with generally accepted accounting principles . . ."

12. CCR section 56917 provides, in part:

(a) Regional centers shall pay residential service providers monthly at the rate established by the Department pursuant to Section 56902(b) and (c).

(b) The source of funds for the monthly payment of residential service providers shall consist of the Regional Center Supplement and, where appropriate, any Supplemental Security Income (SSI) and State Supplemental Program (SSP) funds for which the consumer is eligible minus the consumer's Personal and Incidental Allowance as defined in Title 17, California Code of Regulations, Section 56002(a)(26).

(c) When the regional center has been appointed as the consumer's representative payee for the consumer's SSI/SSP payment, the regional center shall:

(1) Forward that portion of the consumer's Personal and Incidental Allowance which is not conserved by the regional center on the consumer's behalf to the consumer no later than the 10th day of the month in which the regional center receives the consumer's SSI/SSP payment; and

(2) Forward the consumer's SSI/SSP payment to the residential service provider no later than the 10th day of the month following the month in which the regional center receives the consumer's SSI/SSP payment.

(d) The regional center shall reimburse the residential service provider in arrears with funds from the Regional Center Supplement for that portion of the residential rate

which exceeds the amount of the consumer's SSI/SSP payment.

[¶] . . . [¶]

13. Claimant did not establish FDLRC's payment of her entire share of costs for residing at Glen Park is necessary to meet the goals stated in her IPP. Rather, Claimant alleges that she needs additional supplemental income to address nutritional and personal grooming needs. While it is a desired outcome that Claimant remain in good physical and dental health, the facts are that Glen Park provides Claimant with meals and snacks and accommodates dietary needs. Claimant's contention that Glen Park's meals do not meet her nutritional requirements is not supported by the evidence. While Claimant may prefer to eat out, her desire is not tied to her IPP goals; therefore, the Service Agency is not required to meet Claimant's funding request.

14. Moreover, the Service Agency is also required to provide public resources in a cost-effective manner. Claimant receives \$275 per month in CalFresh benefits and \$188 per month in P&I, for a total of \$463 in disposable income, which she can use for incidentals. Claimant completes product surveys for additional income. Hair cutting and coloring services are available to her for less than she currently spends, notwithstanding her personal preferences and choices regarding these services. Therefore, under these circumstances, it would not be a cost-effective use of public resources for the Service Agency to grant Claimant's funding request. The evidence also established that Claimant's public benefits could be reduced if FDLRC paid some or all of Claimant's share of costs for residing at Glen Park.

15. Claimant's goals to live independently, obtain a part-time job, and engage in social recreational activities are supported by FDLRC's provision of a TAP

card, ILS supports, and housing and employment services. The evidence further established that the Service Agency has made exceptions to provide Claimant with taxi services for her travel to complete product surveys. FDLRC has also met its obligation to secure needed services and supports that meet Claimant's needs as determined in the IPP, in that the Service Agency has provided her with supplemental supports in the form of food vouchers, grocery store gift cards, and vouchers to purchase clothing for work. The Service Agency has offered to continue providing Claimant these supplemental supports.

16. Based on the foregoing, Claimant did not establish by a preponderance of the evidence that FDLRC is required to fund Claimant's entire share of costs at Glen Park.

ORDER

Claimant's appeal of the Service Agency's decision to deny the request to fund her entire share costs for residing at Glen Park is denied.

DATE:

CARMEN D. SNUGGS-SPRAGGINS
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.