

**BEFORE THE  
DEPARTMENT OF DEVELOPMENTAL SERVICES  
STATE OF CALIFORNIA**

**In the Matter of:**

**Claimant,**

**vs.**

**EASTERN LOS ANGELES REGIONAL CENTER,**

**Service Agency.**

**OAH No. 2023090456**

**DDS No. CS0009248**

**PROPOSED DECISION**

Erlinda Shrenger, Administrative Law Judge, Office of Administrative Hearings (OAH), State of California, heard this matter by videoconference on October 19, 2023.

Claimant was represented by his mother (Mother) and father (Father). Claimant and his parents are identified by titles to protect their privacy.

Jorge Morales, Appeals Specialist, represented Eastern Los Angeles Regional Center (Service Agency or ELARC).

Oral and documentary evidence was received. The record closed and the matter was submitted for decision on October 19, 2023.

## **ISSUE**

Did Service Agency properly deny Claimant's request for service dog training to address his elopement behaviors?

## **EVIDENCE RELIED ON**

Documentary: Service Agency exhibits 1-17; Claimant exhibits C1-C4.

Testimonial: Oscar Alvarado Trujillo, ELARC service coordinator; and Mother and Father (collectively, Parents).

## **FACTUAL FINDINGS**

### **Jurisdictional Matters**

1. Claimant is a four-year-old boy who qualifies for regional center services based on Intellectual Disability. Claimant also has a diagnosis of Down Syndrome.

2. Claimant participates in the Self-Determination Program (SDP). His SDP individual budget was approved and signed by Mother and SDP service coordinator Oscar Trujillo on April 18, 2023. (Exh. 11.) Claimant's SDP spending plan was signed by Mother and Mr. Trujillo on May 3 and May 8, 2023, respectively. (Exh. 12.)

3. On August 9, 2023, Service Agency sent a Notice of Action (NOA) letter to Mother, notifying her that her request to add service dog training to Claimant's SDP budget was denied. (Exh. 1.) Mother had requested training for the family's dog to become a service dog to prevent claimant's elopement behavior. The NOA indicated the reason for the denial was that Service Agency did not receive clear answers from dog training agencies regarding the ability of training a dog to prevent elopement behavior. (*Id.*)

4. On August 30, 2023, Mother filed an appeal request, on claimant's behalf, to appeal Service Agency's decision denying the request for funding service dog training. This hearing ensued.

### **Claimant's Background**

5. Claimant lives at home with Parents and his younger sister. Father works outside the home. Mother is claimant's primary caregiver. Claimant is ambulatory. He has vision and hearing impairment. He communicates verbally and with sign language. Claimant requires assistance to complete self-care tasks. Claimant requires supervision at all times to ensure his safety.

6. Pursuant to claimant's Individual Program Plan (IPP) dated March 20, 2023, Service Agency agreed to fund in-home respite of 25 hours per month; out-of-home respite 21 days per fiscal year, 16 hours per day; Parents' attendance at two conferences per year; Club 21 family support group once per month; 30 hours per month of DIR/Floortime service; and two weeks of summer camp with personal assistance support (5.5 hours per day). (Exh. 3.) Additionally, claimant receives seven hours per month of In-Home Supportive Services, and behavioral services funded by insurance. Pursuant to his Individualized Education Plan (IEP) with his school district,

claimant receives occupational therapy, physical therapy, speech therapy, adaptive physical education, and transportation.

## **Request for Service Dog Training**

7. Mother requested Service Agency funding to train the family's dog to become a service dog to prevent claimant from eloping. Mother testified the family's dog is about one year old. Claimant's family received the dog from a service dog breeder that donates one puppy from every litter to a family with a special needs child. Mother testified the dog was always intended to be a service dog for claimant, and not merely a family pet.

8. Under the SDP, a Person-Centered Plan (PCP) is developed to identify the areas where the participant may need support. Claimant's PCP is dated November 25, 2022, and was prepared by Iris Barker, an independent facilitator. Claimant's PCP includes a health and safety goal (Goal 3) that claimant will "understand safety awareness at home and while in the community." (Exh. 4, p. A35.) The PCP notes that "[claimant] is still working on understanding safety. He hugs strangers. He elopes and runs in front of moving cars. He reaches for the fire knowing it's hot. Turns on the sink or bathtub water in the hottest setting and can burn himself." (*Ibid.*) The PCP identifies Applied Behavior Analysis (ABA) therapy, Community Integration Supports, and service dog training as services for meeting Goal 3.

9. Regarding service dog training, the PCP notes that claimant's family "recently got a dog in order to train it as a service dog for [claimant's] safety. Parents know that the dog will be able to follow him when he elopes and hides. It can also get trained to bark if [claimant] runs toward danger. They do not have this dog as a family

pet, but this is strictly for his safety. Training can cost thousands of dollars that parents can't afford." (Exh. 4, p. A35.)

10. Mother and Oscar Trujillo, claimant's SDP service coordinator, have communicated regarding the family's request to add service dog training to claimant's SDP spending plan. Their communications are documented in Service Agency's ID Notes. (Exh. 10.)

11. On April 21, 2023, Mother sent Mr. Trujillo an email that contained a list of service dog trainers and explained the family's need for specialized service dog training to address claimant's elopement behavior. The email stated in pertinent part:

Training is for specialized service dog training. Primary issue is elopement. [Claimant] wanders off in public places and on our property. [¶] We have taken many precautions but still he is quick on his feet. I've learned to put [claimant] in the car first before my daughter[:] otherwise if I put her in first, he runs off. [¶] Also in public spaces/parking lots he'll just disconnect from our hands and run towards moving cars. [¶] We have 3 gates on our property (front door, porch and end of driveway) but we have neighbors who share driveways with us. They drive past us and it's happened before that [claimant] managed to escape and got by the street and a moving car from our neighbors. [¶] It's been a stressful situation as he does not comprehend safety.

(Exh. 10, p. A119.)

12. On April 25, 2023, Mr. Trujillo sent an email to Mother and Ms. Barker. Mr. Trujillo noted that claimant's SDP spending plan used service code 320. Mr. Trujillo noted: "Under [service code] 320 definition, I am not able to find training for an existing dog. What I do find is the acquisition of a dog that is trained." (Exh. 10, p. A120.) Mr. Trujillo advised that the family needed to exhaust generic resources and he provided a list of agencies they could contact about training the family's existing dog.

13. On June 16, 2023, Mother sent Mr. Trujillo an email regarding the request for service dog training. She explained that the family "only got the dog" after "consulting with many people saying that it's possible for self determination to pay for service dog training." (Exh. 10, p. A121.) Mother noted she was informed at the SDP orientation and meetings that "training is done under service code 320." (*Ibid.*)

14. In the June 16, 2023 email, Mother also indicated claimant continued to engage in elopement behaviors. She wrote:

[Claimant] has eloped many times and while we are watching him[,] he runs and doesn't look back. Often running straight to danger thinking it is a game. We have tried so many things. Gates[,] locks[,] teaching stop and freeze[,] incorporating elopement goals into behavior therapies. Unfortunately not making progress. I actually attempted to figure it out and watched videos and it worked once for me to teach the dog to block [claimant] from running off. She knocked him over (not sure how to teach her properly), but she got the task done. He no longer tried to run off knowing she was in the way. I am not skilled in dog training and this has been challenging trying

to figure it all out. She has mastered a lot at home, but I really need her to block him from running into danger. I cannot always catch him in time while getting my 1 year old [i.e., claimant's sister].

(Exh. 10, pp. A121-A122.)

15. On June 26, 2023, Mr. Trujillo sent Mother an email requesting that she answer five questions regarding the request for service dog training. Mother responded to Mr. Trujillo's email the same day. In response to Mr. Trujillo's questions, Mother explained: (1) the family's plan for the dog training was "to get specified training for the dog to prevent/stop elopement"; (2) the dog was nine months old; (3) the dog "has had some private basic training by Click Treat Dog Training in Huntington Beach"; (4) the ultimate goal is to keep the dog as a service dog for elopement, but if another issue arises in the future, the dog can receive additional training as needed for claimant's safety and well-being; however, at this time, the family's "primary concern is elopement, as [claimant] runs into danger daily and without fear"; and (5) the family was planning to use certified dog trainer Sally Kemper for the training. (Exh. 10, p. A123.)

16. On or about August 4, 2023, Mr. Trujillo confirmed his discussion with Mother that Service Agency was unable to add service dog training to claimant's spending plan, and that Mother had requested to move forward with a Notice of Action. (Exh. 10, p. A130.) Service Agency sent Mother a Notice of Action letter dated August 9, 2023. (Exh. 1.)

## Services Available in the SDP

17. The SDP “shall only fund services and supports . . . that the federal Centers for Medicare and Medicaid Services determines are eligible for federal financial participation.” (Welf. & Inst. Code, § 4685.8, subd. (c)(6).) At hearing, Service Agency presented a document titled “Self-Determination Program Service Definitions” that lists the services available under the SDP. (Exh. 6.) The services available in the SDP include, but are not limited to, Behavioral Intervention Services, Community Integration Supports, and Community Living Supports. (*Id.*, at pp. A49 to A50; A51 to A55.)

18. Behavioral Intervention Services include “the use and development of intensive behavioral intervention programs to improve the participant’s development”; the intervention programs “are restricted to generally accepted, evidence-based, positive approaches.” (Exh. 6, p. A49.) Further, Behavioral Intervention Services “are designed to assist individuals in acquiring, retaining and improving the self-help, socialization and adaptive skills necessary to reside successfully in home and community-based settings.” (*Ibid.*)

19. Community Integration Supports is a service “provided to participants tailored to their specific personal outcomes related to the acquisition, improvement and/or retention of skills and abilities to prepare and support the participant for community participation, interdependence, and independence.” (Exh. 6, p. A51.) This service “assist[s] the participant to increase and improve self-help, socialization, community integration, and adaptive skills.” (*Id.*, at pp. A51-A52.)

20. Community Living Supports are “services that facilitate independence and promote community integration for participants, regardless of the community



living arrangement. Services include support and assistance with socialization, personal skill development, community participation, recreation and leisure, and home and personal care[.]” (Exh. 6, p. A52.)

## **Service Agency’s Denial**

21. Mr. Trujillo, in his testimony, explained the reasons for Service Agency’s denial of Mother’s request to use SDP funding for service dog training.

22. Training for a service dog is not included within the definition of SDP services. Mr. Trujillo noted that Community Living Supports is the only SDP service that mentions service animals. Specifically, Community Living Supports includes “assistance that enables the individual to more fully participate in community activities. Assistance may include, but is not limited to, the acquisition, use, and care of canine or other animal companions specifically trained to provide personal assistance, or devices to facilitate immediate assistance when threats to health, safety, or well-being occur.” (Exh. 6, p. A53.) Service Agency contends this definition refers to service animals that are already specifically trained; it does not authorize dog training as an SDP service.

23. Moreover, this definition of Community Living Supports refers to service animals that are already trained to provide personal assistance. Mother has requested dog training to prevent elopement. Service Agency contends that preventing elopement is not personal assistance. The term “personal assistance” is defined by Service Agency as individualized assistance with activities of daily living that directly benefits the consumer by providing support for completing daily living tasks. Personal assistance “is not intended to be a substitute for . . . a behavior program, or other program that is intended to meet different specific individual needs.” (Exh. 17.) The dog training requested by Mother, to prevent elopement, does not meet the definition

of personal assistance, which is the only permitted purpose for a service animal under the SDP service definitions.

24. Mr. Trujillo asserted that the best method for addressing claimant's elopement behavior is ABA therapy, which is a skill building service for claimant and his family. Mr. Trujillo noted he has provided claimant's family with information regarding tracking technology, such as LA Found, as well as warning devices and harnesses to address claimant's eloping behavior. Mr. Trujillo testified that when he contacted dog trainers, he did not get a clear answer on whether they could train a dog to stop elopement.

25. Mr. Trujillo, in testimony, noted that parents generally have a responsibility to supervise their minor children. Under the Lanterman Act, the regional centers are required to consider, among other things, "the family's responsibility for providing similar supports for a minor child without disabilities in identifying the consumer's service and support needs[.]" (Welf. & Inst. Code, § 4646.4, subd. (a)(4).) Thus, Parents have a responsibility to supervise claimant to prevent or address his eloping behaviors.

## **Parents' Testimony and Evidence**

26. Mother and Father testified at the hearing. Father testified that claimant needs assistance with his behaviors. He noted claimant's therapies have helped to address his behavioral challenges. However, the family needs help to prevent harm to claimant while he is learning skills that address his behaviors.

27. Mother's testimony was consistent with the information in the ID Notes documenting her communications with Mr. Trujillo. Mother testified that claimant runs outside of the house if a door is left open; he wanders away and goes missing when

she looks away just for one second; and claimant does not want to hold hands. Mother noted that claimant's eloping behavior is a safety concern because the family's home is close to a major highway. Mother feels she and Father have tried everything to stop claimant from eloping, such as gates, locks, holding hands, putting claimant in a stroller, and teaching him games to "freeze" so he stops going toward danger. Mother testified she and Father sometimes sleep in the living room because claimant wakes up in the middle of the night and walks out the front door. Mother believes a dog could bark to alert Parents if claimant wanders outside, and also block claimant from going outside.

28. Mother testified she asked Service Agency about training a dog for elopement after speaking with the parent of a child with Down Syndrome who claimed that dog training can be funded in the SDP. Mother testified she has done research and contacted dog trainers, who indicated to her they could provide service dog training for elopement. Mother presented a letter by certified dog trainer Sally Kemper, who indicated she can provide service dog training for elopement. (Exh. C4.)

## **LEGAL CONCLUSIONS**

1. The Lanterman Developmental Disabilities Services Act (Lanterman Act) governs this case. (Welf. & Inst. Code, § 4500 et seq.) (All further statutory references are to the Welfare and Institutions Code unless otherwise indicated.) A state level fair hearing to determine the rights and obligations of the parties, if any, is referred to as an appeal of the service agency's decision. Claimant timely requested a fair hearing, and therefore jurisdiction for this case was established. (Factual Findings 1-4.)

2. When one seeks government benefits or services, the burden of proof is on him. (*Lindsay v. San Diego Retirement Bd.* (1964) 231 Cal.App.2d 156, 161.) The standard of proof in this case is the preponderance of the evidence because no law or statute (including the Lanterman Act) requires otherwise. (Evid. Code, § 115.) This standard is met when the party bearing the burden of proof presents evidence that has more convincing force than that opposed to it. (*People ex rel. Brown v. Tri-Union Seafoods, LLC* (2009) 171 Cal.App.4th 1549, 1567.)

3. In this case, claimant bears the burden of proving by a preponderance of the evidence that he is entitled to use SDP funding for dog training to address his elopement behaviors. (See Evid. Code, § 500.)

### **Self-Determination Program**

4. The SDP is a model of service delivery provided under section 4685.8. A regional center consumer who has been deemed eligible for, and has voluntarily agreed to participate in, the SDP is referred to as a "participant." (§ 4685.8, subd. (c)(5).) "A participant may choose to participate in, and may choose to leave, the Self-Determination Program at any time." (§ 4685.8, subd. (d).)

5. "Self-determination" means "a voluntary delivery system consisting of a defined and comprehensive mix of services and supports, selected and directed by a participant through person-centered planning, in order to meet the objectives in their IPP." (§ 4685.8, subd. (c)(6).)

6. The SDP "shall only fund services and supports . . . that the federal Centers for Medicare and Medicaid Services determines are eligible for federal financial participation." (*Ibid.*) A participant "shall utilize the services and supports

available within the [SDP] only when generic services and supports are not available.”  
(§ 4685.8, subd. (d)(3)(B).)

## **Discussion**

7. The preponderance of the evidence established that Service Agency properly denied the request of claimant’s family to use SDP funding to purchase dog training to address his elopement behaviors. No evidence was presented that dog training is a service that is eligible for federal financial participation. Dog training for elopement is not include in the definition of services available in the SDP. Claimant’s eloping behavior is appropriately addressed through behavioral intervention services, such as ABA therapy. Additionally, tracking technology and devices, such as LA Found, can help the family reduce the risk of harm from claimant’s eloping behavior.

## **ORDER**

Claimant’s appeal is denied. Service Agency properly denied claimant’s request for service dog training to address claimant’s elopement behavior.

DATE:

ERLINDA SHRENGER  
Administrative Law Judge  
Office of Administrative Hearings

BEFORE THE  
DEPARTMENT OF DEVELOPMENTAL SERVICES  
STATE OF CALIFORNIA

In the Matter of:

Claimant

OAH Case No. 2023090456

Vs.

**DECISION BY THE DIRECTOR**

Eastern Los Angeles Regional Center,

Respondent.

ORDER OF DECISION

On October 29, 2023, an Administrative Law Judge (ALJ) at the Office of Administrative Hearings (OAH) issued a Proposed Decision in this matter.

The Department of Developmental Services (DDS) takes the following action on the attached Proposed Decision of the ALJ:

The Proposed Decision is adopted by DDS as its Decision in this matter. The Order of Decision, together with the Proposed Decision, constitute the Decision in this matter.

This is the final administrative Decision. Each party is bound by this Decision. Either party may request a reconsideration pursuant to Welfare and Institutions Code section 4713, subdivision (b), 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.

Attached is a fact sheet with information about what to do and expect after you receive this decision, and where to get help.

IT IS SO ORDERED on this day November 22, 2023.

*Original Signed by:*

Nancy Bargmann, Director