

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

**In the Matter of the Appeal of:**

**CLAIMANT**

**v.**

**ALTA CALIFORNIA REGIONAL CENTER**

**OAH No. 2023110274**

**PROPOSED DECISION**

Administrative Law Judge Sean Gavin, a Hearing Officer employed by the Office of Administrative Hearings (OAH), State of California, heard this matter on January 29, 2024, by videoconference from Sacramento, California.

Robin Black, Legal Services Manager, represented Alta California Regional Center (ACRC).

Claimant's mother represented claimant.

Evidence was received, the record closed, and the parties submitted the matter for decision on January 29, 2024.

## **ISSUE**

Should ACRC be required to include funding for claimant's psychiatric treatment and medication management services in his Self-Determination Program budget?

## **FACTUAL FINDINGS**

### **Background**

1. Claimant is a 24-year-old ACRC consumer based on his qualifying diagnoses of severe intellectual disability and severe Autism Spectrum Disorder (ASD), with Fragile X Syndrome. He has received services and supports through ACRC since 2017, when he and his family moved to California. His conditions cause disabilities in the areas of self-care, receptive and expressive language, learning, self-direction, capacity for independent living, and economic self-sufficiency.

2. Claimant's symptoms include involuntary muscle movements, which cause him to strike and harm himself. To reduce the risk of such harm, claimant wears prescription arm immobilizers during most of the day when he is not sleeping. Claimant's mother hopes he can receive psychiatric services and medication management to lessen his involuntary movements so he no longer needs to wear the arm immobilizers.

3. Claimant is enrolled in the Self-Determination Program (SDP), which provides "an individual budget, increased flexibility and choice, and greater control over decisions, resources, and needed and desired services and supports to implement" claimant's Individual Program Plan (IPP). (Welf. & Inst. Code, § 4685.8,

subd. (a).) Various statutes and regulations govern what supports and services ACRC may fund through the SDP.

### **Claimant's October 2022 IPP**

4. Beginning in approximately 2019, claimant received psychiatric care, including prescription psychiatric medications, to lessen his involuntary movements. He received the services and medication through private insurance. In October 2022, before claimant transitioned to the SDP, his mother and ACRC staff participated in an IPP meeting and agreed on his annual IPP. In the October 2022 IPP, ACRC staff noted, in relevant part:

[Claimant] has Private Anthem Blue Cross insurance and Straight Medi-Cal. He did not have any emergency room visits or hospitalizations over the past year. [Claimant's] Primary Care Physician is Dr. Afshine Ghaemi with UC Davis, 2261 Douglas Blvd, Roseville, CA 95661. [Claimant] has appointments with his primary care physician quarterly. He also sees Dr. Randi Hagerman at UC Davis Medical Center, director of the Fragile X Research and Treatment Center, located at 2825 50th St., Sacramento, CA 95817 on an as needed basis. Appointments are being conducted via telehealth, and in-person. [Claimant] has a Psychiatrist with UC Davis, Alexis Rosvall. The psychiatrist is providing medication refills but [claimant's mother] is currently looking for a new provider.

5. One of the objectives listed in the October 2022 IPP stated, "Given regular medical, psychiatric and dental care, [claimant] will maintain good physical, mental and dental health, through August 2023." To help achieve this objective, the October 2022 IPP identified 12 services and supports, including, "Health care will continue to be provided by Straight Medi-Cal for as long as [claimant] is eligible for this service." Claimant's mother did not request ACRC to fund claimant's psychiatric care or medication management in his October 2022 IPP.

### **March 2023 SDP IPP**

6. On March 21, 2023, as part of claimant's transition to the SDP, his mother and ACRC staff participated in an SDP IPP meeting and agreed on his new SDP IPP. In the March 2023 SDP IPP, ACRC staff noted, in relevant part:

[Claimant] has Straight Medi-Cal insurance (was granted an exception to remain on straight Medi-Cal for one year). His health has remained stable over the past year with no emergency room visits or hospitalizations. [Claimant's] Primary Care Physician is Dr. Afshine Ghaemi with UC Davis, 2261 Douglas Blvd, Roseville, CA 95661. [Claimant] has an upcoming appointment with his PCP [primary care physician] in July 2023. He also sees Dr. Randi Hagerman at UC Davis Medical Center, director of the Fragile X Research and Treatment Center, located at 2825 50th St., Sacramento, CA 95817 on an as needed basis. UC Davis accepts his insurance for medical appointments but is unable to provide Psychiatry medication management. His mother has started the referral process for ACCESS mental

health, but this service is not appropriate for [claimant] and a psychiatrist has not been assigned. ACRC will explore funding for Psychiatry medication management, including exploring Turning Point Wrap services.

7. One of the objectives listed in the March 2023 SDP IPP stated, "Given regular medical, psychiatric and dental care, [claimant] will maintain good physical, mental and dental health, through March 2024." To help achieve this objective, the March 2023 SDP IPP identified 16 services and supports, including, "Health care will continue to be provided by Straight Medi-Cal for as long as [claimant] is eligible for this service." Another identified service and support was, "ACRC will explore funding for Psychiatry medication management, including exploring Turning Point Wrap services."

## **Sacramento County's Rejection of Claimant's Request for Specialty Mental Health Services**

8. On an unspecified date claimant's mother applied to Sacramento County for claimant to receive specialty mental health services through a provider known as SacCo – Access – East PKWY. On March 22, 2023, Sacramento County issued a Notice of Adverse Benefit Determination (County Notice) denying the request. Specially, the County Notice explained:

The Mental Health Plan provides services to people with severe symptoms. The symptoms must cause problems for you in your daily life. The symptoms must also make you eligible for a diagnosis covered by the Mental Health Plan. The MHP denied your request because:

The symptoms you shared about the mental health condition do not qualify for services from the Mental Health Plan (Title 9, CCR, Section 1830.205(b) (1) and (2)).

9. The County Notice further explained claimant's right to appeal the determination and provided information about how to pursue such an appeal. There was insufficient evidence at hearing to determine whether claimant's mother pursued an appeal. Claimant's mother shared the County Notice with ACRC during an informal meeting in November 2023.

### **Claimant's April 2023 SDP Budget**

10. Beginning April 1, 2023, claimant's mother and ACRC agreed on a yearly budget for claimant's SDP services. The total budget of \$332,913.26 provided for services in the categories of Living Arrangement, Employment and Community Participation, and Health and Safety. None of the categories included any funds for claimant's psychiatric care or medication management.

### **Claimant's Request for Services and ACRC's Notice of Action**

11. On an unspecified date, claimant's mother requested ACRC include psychiatric services and medication management in claimant's SDP budget. On August 30, 2023, ACRC sent a Notice of Action (NOA) denying the request. As explained in the NOA, ACRC denied the request because:

You have not established that there is has [sic] been a change in [claimant's] needs, resources, or circumstances to warrant an increase in his SDP budget. Indeed, it appears that [claimant] is already receiving and has been receiving

the requested services from your preferred provider. Additionally, ACRC cannot pay for services which it is the legal responsibility of a client's health insurance plan to pay for (whether public or private health insurance). It is the responsibility of all health insurance plans in California to pay for or provide medically necessary medical services such as psychiatry and medication management to all insured individuals. ACRC can only consider funding those medical services if it is provided a written denial from the client's health insurance plan of a request to pay for or provide those services. You have not provided ACRC any such written denial, and therefore, [claimant's] health insurance is not exhausted as a potential resource for paying for any needed psychiatry/medication management services for him. Finally, because ACRC would not pay for this service under a traditional IPP, it is unable to certify an SDP budget containing funds for this service.

12. On October 30, 2023, claimant's mother sent ACRC a Fair Hearing Request appealing the denial. In it, she stated the reason for requesting a fair hearing was:

We went through ACCESS and he did not meet the eligibility criteria due [to] his complex medical needs. The regional center was exploring TTS Turning point partial wrap and to cover the psychiatry services and funding through SDP until there were changes [sic] service

coordinators/management and I received the denial via the NOA. It took me this long to appeal because since [I] received the NOA there was another change in SC/management and it took time to communicate with them and was told this decision is being upheld now.

## **ACRC's Evidence at Hearing**

13. Melissa Schuessler, a Client Services Manager (CSM) at ACRC, testified at hearing. Before starting as a CSM, Ms. Schuessler was a service coordinator and was assigned to claimant's case from 2019 through March 2023. At hearing, she confirmed the details of claimant's October 2022 IPP meeting and March 2023 SDP IPP meeting. Regarding the note that "ACRC will explore funding for Psychiatry medication management, including exploring Turning Point Wrap services," in the March 2023 SDP IPP, Ms. Schuessler explained she referred claimant to Turning Point, but Turning Point never completed an assessment for claimant. Rather, Turning Point determined claimant was not appropriate for wrap services, but just psychiatric services.

14. Kenisha Hurd, a CSM at ACRC, testified at hearing. She has worked on claimant's case because she is familiar with the SDP. She understands claimant's mother wants ACRC to make the University of California, Davis (UC Davis) an ACRC vendor and then provide funding for psychiatric services through UC Davis's behavioral health department.

15. Ms. Hurd explained claimant can access providers through the SDP by identifying specific service providers, then connecting with the SDP's financial management service provider to arrange for payment from SDP funds. However, she must first exhaust all generic resources for those services, such as health insurance or



Medi-Cal. She has seen the County Notice but does not know if it constituted a denial of Medi-Cal services because she does not know what “specialty mental health services” means, does not know what exact services claimant’s mother requested from the County, and does not know the County’s process for approving or denying service requests. She is also aware that a doctor at UC Davis is currently prescribing refills for claimant’s psychiatric medication. Therefore, she does not believe there is any need to change claimant’s SDP budget to include funds for a service he already receives.

### **Claimant’s Evidence at Hearing**

16. Claimant’s mother testified at hearing and submitted three documents into evidence. The first document is a January 2024 letter from Afshine Ghaemi, M.D., claimant’s primary care physician at UC Davis. Dr. Ghaemi wrote in the letter, in relevant part, “[claimant] would benefit tremendously from psychiatric consultation and management through Sacramento Mental Health services and [ACRC].” The second document is a January 2024 email from claimant’s previous doctor in another state encouraging him to seek a doctor in California to explore his options. The final document is a January 2024 email from Dr. Ghaemi forwarding a message from unspecified UC Davis personnel. The forwarded note states, in relevant part, “Hello Dr. Ghaemi, thank you for your referral however the psychiatry department is not contracted with Medi-cal or any GMC plans, you may advise for patient to call his/her health insurance for a list of psych providers, or patient can call Sacramento County.”

17. Claimant’s mother testified that claimant has “unmet psychiatric needs.” Randi Hagerman, M.D., prescribes claimant’s psychiatric medications through UC Davis via a fee-for-service arrangement. However, Dr. Hagerman has suggested claimant might benefit from other treatment, including transcranial magnetic stimulation (TMS) and/or electroconvulsive therapy (ECT). Dr. Hagerman has informed claimant’s mother

that she is not an expert on TMS or ECT and therefore recommends a psychiatrist to oversee any such treatment. Claimant does not have private insurance. For that reason, claimant's mother wants ACRC to include funding for psychiatric services and medication management in claimant's SDP budget so she can pay for either TMS or ECT treatment. She has identified UC Davis as the service provider, but she is unable to specify which doctor or doctors would provide the services because the behavioral health department is large. She has not yet scheduled an appointment with UC Davis because it does not accept Medi-Cal or private payment. She is frustrated by the process and wants ACRC to advocate for claimant and help manage his receipt of services.

## **Analysis**

18. ACRC contends claimant's request to include funding for psychiatric services and medication management in his SDP budget must be denied. For the reasons discussed below, ACRC's position is supported by the law.

19. First, when a regional center develops an IPP for a client, it must follow "a process of individualized needs determination." (Welf. & Inst. Code, § 4646, subd. (b).) Among other things, the process of developing an IPP must ensure "utilization of generic resources and supports if appropriate." (*Id.* at § 4646.4, subd. (a)(2).) That is because "regional center funds shall not be used to supplant the budget of an agency that has a legal responsibility to serve all members of the general public and is receiving public funds for providing those services." (*Id.* at § 4648, subd. (a)(8).) Instead, the process of developing an IPP must ensure "utilization of other services and sources of funding," such as "governmental or other entities or programs required to provide or pay the cost of providing services, including Medi-Cal." (*Id.* at §§ 4646.4, subd. (a)(3)(A), 4659, subd. (a)(1).)

20. Claimant's health insurance, either provided privately or through Medi-Cal, is a generic resource that must be exhausted before ACRC can provide funding. Here, claimant receives health insurance, including psychiatric care and medication, through UC Davis. Claimant wants to receive different care but has not yet identified a specific provider for such care. As a result, it is premature to include funding for that care in claimant's SDP budget, because the service provider and associated cost have not been determined. Furthermore, before the service provider and associated cost, if any, are identified, it is too early to evaluate whether claimant has exhausted all generic resources to fund such services.

21. Claimant's mother credibly explained her genuine frustration with the process and her belief that claimant needs different psychiatric services. However, there was insufficient evidence at hearing to support her position that ACRC must include funding for psychiatric services and medication management in claimant's SDP budget. Therefore, there is no legal basis to grant claimant's appeal.

## **LEGAL CONCLUSIONS**

### **Burden and Standard of Proof**

1. The burden of proof is on the party seeking government benefits or services. (*Lindsay v. San Diego County Retirement Bd.* (1964) 231 Cal.App.2d 156, 161.) In this case, claimant bears the burden of proving, by a preponderance of the evidence, that ACRC is required to include funding for psychiatric services and medication management in his SDP budget. (Evid. Code, § 115.) Claimant did not meet his burden.

## Applicable Statutes and Regulations

2. Under the Lanterman Act (Welf. & Inst. Code, § 4500 et seq.), the State of California accepts responsibility for persons with developmental disabilities and pays for the majority of the “treatment and habilitation services and supports” to enable such persons to live “in the least restrictive environment.” (Welf. & Inst. Code, § 4502, subd. (b)(1).) “The purpose of the statutory scheme is twofold: to prevent or minimize the institutionalization of developmentally disabled persons and their dislocation from family and community [citations], and to enable them to approximate a pattern of everyday living of nondisabled persons of the same age and to lead more independent and productive lives in the community [citations].” (*Assoc. for Retarded Citizens v. Dept. of Developmental Services* (1985) 38 Cal.3d 384, 388.)

3. To determine how an individual consumer is to be served, regional centers are directed to conduct a planning process that results in an IPP designed to promote as normal a lifestyle as possible. (Welf. & Inst. Code, § 4646; *Assoc. for Retarded Citizens v. Dept. of Developmental Services*, *supra*, 38 Cal.3d at p. 389.) The IPP is developed by an interdisciplinary team and must include participation by the consumer and/or his representative. The regional center must gather information and assessments from a variety of sources, including providers of services or supports. (Welf. & Inst. Code, § 4646.5, subd. (a)(1).)

4. Among other things, the IPP must set forth goals and objectives for the consumer, contain provisions for the acquisition of services (which must be based upon the consumer’s developmental needs), contain a statement of time-limited objectives for improving the consumer’s situation, and reflect the consumer’s particular desires and preferences. (Welf. & Inst. Code, §§ 4646, subds. (a) & (b), 4646.5, subd. (a), 4512, subd. (b), 4648, subd. (a)(6)(E).) The regional center must then

“secure services and supports that meet the needs of the consumer” within the context of the IPP. (*Id.* at § 4648, subd. (a)(1).)

5. Self-determination is designed to give the participant greater control over which services and supports best meet their IPP needs, goals, and objectives. (Welf. & Inst. Code, § 4685.8, subd. (b)(2)(B).) One goal of the SDP is to allow participants to innovate to achieve their goals more effectively. (*Id.* at § 4685.8, subd. (b)(2)(G).)

6. The SDP requires a regional center, when developing the individual budget, to determine the services, supports and goods necessary for each consumer based on the needs and preferences of the consumer, and when appropriate, the consumer’s family, the effectiveness of each option in meeting the goals specified in the IPP, and the cost effectiveness of each option. (Welf. & Inst. Code, § 4685.8, subd. (b)(2)(H)(i).)

7. “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.” (Welf. & Inst. Code, § 4685.8, subd. (c)(6).) “Individual Budget” means the amount of regional center purchase-of-service funding available to the participant to purchase services and supports necessary to implement the IPP. (Welf. & Inst. Code, § 4685.8, subd. (c)(3).) The regional center can adjust the individual budget if it determines it is necessary due to a change in circumstances, needs, or resources that would result in an increase or decrease in purchase of service expenditures or if the IPP team identifies a prior unmet need that was not addressed in the IPP. (*Id.* at § 4685.8, subd. (m)(1)(A)(ii).)

8. The SDP requires participants to “only purchase services and supports necessary to implement their IPP.” (Welf. & Inst. Code, § 4685.8, subd. (d)(3)(C).) The SDP specifically obligates the participant to “utilize the services and supports available within the Self-Determination Program only when generic services and supports are not available.” (*Id.* at § 4685.8, subd. (d)(3)(B).)

9. Regional centers are mandated to provide a wide range of services to facilitate implementation of a consumer’s IPP but must do so cost-effectively. (Welf. & Inst. Code, §§ 4640.7, subd. (b), 4646, subd. (a).) They must “identify and pursue all possible sources of funding for consumers receiving regional center services,” including “governmental or other entities or programs required to provide or pay the cost of providing services, including Medi-Cal.” (*Id.* at §§ 4646.4, subd. (a)(3)(A), 4659, subd. (a)(1).) “Regional center funds shall not be used to supplant the budget of an agency that has a legal responsibility to serve all members of the general public and is receiving public funds for providing those services.” (*Id.* at § 4648, subd. (a)(8).)

## **Conclusion**

10. As explained above, claimant’s psychiatric services and medication management must be provided by other resources, such as private health insurance or Medi-Cal. Therefore, claimant did not meet his burden to prove that ACRC must include funding for his psychiatric services and medication management in his SDP budget.

## **ORDER**

Claimant's appeal from Alta California Regional Center's August 30, 2023 Notice of Action proposing to deny claimant's request to include funding for psychiatric services and medication management in his SDP budget is DENIED.

DATE: February 8, 2024

SEAN GAVIN

Administrative Law Judge

Office of Administrative Hearings

BEFORE THE  
DEPARTMENT OF DEVELOPMENTAL SERVICES  
STATE OF CALIFORNIA

In the Matter of:

Claimant

OAH Case No. 2023110274

Vs.

**DECISION BY THE DIRECTOR**

Alta California Regional Center

Respondent.

ORDER OF DECISION

On February 8, 2024, 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 March 6, 2024.

*Original signed by*

Nancy Bargmann, Director