

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

In the Matter of:

CLAIMANT

and

INLAND REGIONAL CENTER, Service Agency

DDS No. CS0015412

OAH No. 2024040410

DECISION

Abraham M. Levy, Administrative Law Judge, Office of Administrative Hearings, State of California, heard this matter on August 21, 2024, by videoconference.

Claimant's mother represented claimant, who was not present.

Dana Hardy, Fair Hearings Representative, Fair Hearings & Legal Affairs, Inland Regional Center (IRC), represented IRC.

Oral and documentary evidence was received. The record was closed, and the matter was submitted for decision on August 21, 2024.

ISSUES

Shall IRC be required to reimburse claimant for the costs of travel between her residential placement and her home?

Is IRC required to conduct a new social assessment of claimant?

FACTUAL FINDINGS

Background and Jurisdictional Matters

1. Claimant is 17 years old. In a document dated May 18, 2021, titled Eligibility Determination/Team Review, IRC's eligibility team found claimant eligible for regional center services under the epilepsy category. Attached to this document is a social assessment dated May 12, 2021, prepared by a senior counselor in IRC's intake unit. Also attached to the Team's determination is a medical evaluation form completed and signed by claimant's doctor, which identifies claimant's qualifying medical condition as epilepsy.

2. Individual Program Plans (IPPs) dated June 4, 2021, June 24, 2022, June 13, 2023, and March 1, 2024, document claimant's placement and changes in her condition. These IPPs record that claimant was convicted as a juvenile after assaulting her father on June 30, 2022. She was released to her family home, but was returned to Juvenile Hall after lighting herself on fire and being hospitalized. She was then transferred to a short-term residential treatment program (STRTP) in Kern County, and after violating her probation she was detained at a treatment center and placed at a different STRTP in Fresno County, where she resided until April 4, 2024.

In each of the IPPs, claimant's mother was advised to contact claimant's consumer services coordinator (CSC) throughout the year with any questions, concerns or changes pertaining to claimant.

3. According to a July 8, 2024, email from claimant's mother, after the March 1, 2024, IPP, claimant required re-institutionalization and was placed at a third STRTP in Fresno County.

4. Claimant's mother is seeking travel reimbursement for 2,244 of miles for travel by claimant between Fresno and the family home. The mileage is broken down as follows: 1,752 miles for travel from February 23, 2024, to March 3, 2024 (for 584 miles each way), March 8 to March 10, 2024 (for 584 miles three times each way); and for March 14 and March 17, 2024 each way (for 123 miles one way, or 246 miles round trip twice each way) when STRTP staff drove claimant at a halfway point to meet her family.

5. On February 22, 2024, IRC issued a Notice of Action (NOA) denying claimant's request for travel reimbursement and, also, denying claimant's request to conduct a new social assessment for claimant. IRC stated it denied a new social assessment because the Lanterman Act authorizes regional centers to do diagnostic social assessments to determine eligibility and claimant's eligibility for regional center services has already been determined. IRC stated it denied claimant's request to fund transportation for home visits because it is a parent's responsibility to provide transportation to and from claimant's out of home placement.

6. On April 5, 2024, claimant requested a fair hearing to contest IRC's action. She wanted a new social assessment because the social assessment that IRC did to determine claimant's eligibility is inaccurate and does not reflect the summary

of claimant's behaviors. Regarding her request to fund transportation for claimant and the family to visit between the STRTP and the family home, she stated that this funding is needed to facilitate reunification services for claimant to secure claimant's transition out of institutional placement to her family home.

IRC's Responsibility for Purchase of Services and Supports

7. Welfare and Institution Code section 4646.4 requires regional centers to establish an internal process to ensure adherence with federal and state laws and regulations. When purchasing services and supports, regional centers must conform to the purchase of service policies, utilize generic resources and other sources of funding, consider the family's responsibility as natural supports, and consider information regarding the individual's need for service, barrier to access, and other information.

8. IRC has established a Purchase of Service Policy (POS). Pursuant to section 1.24, subdivision (a), of the POS, IRC may fund transportation services as follows:

[I]nland Regional Center may purchase transportation services that will facilitate the services identified in the consumer's Individual Program Plan only when generic resources are unable to provide the transportation on a routine basis for the consumer or are not assigned by regulation to other entities (i.e. residential operator's responsibility to transport residents to medical and recreational opportunities).

Inland Regional Center will only fund transportation, when required from the consumer's residence to the lowest-cost

vendor that provides the service that meets the consumer's needs. The cost of a vendor shall be determined by combining the vendor's program costs and the costs to transport a consumer from the consumer's residence to the vendor. (WIC § 4648.35.)

Claimant's Request for Travel Reimbursement

9. Claimant's mother testified she is seeking travel reimbursement to facilitate her daughter's reunification with her family. She considers IRC negligent for causing her placement in the first place because she believes errors in IRC's baseline 2021 social assessment inaccurately described her condition. As a result, claimant did not receive the services she needed to avoid placement, and claimant's behaviors escalated to the point she required placement.

10. Claimant, as noted, is seeking mileage reimbursement for 2,244 of miles traveled in February and March 2024. At the time, claimant resided at the Promesa Behavioral Health STRTP (Promesa). Promesa, however, provided transportation to claimant for overnight weekend visitation. In an email to IRC, Arlene Vargas, Director of Residential Programs at Promesa, she stated that Promesa typically provides transportation twice a month for overnight weekend visitation and would consider increasing the frequency of transportation.

11. With regard to the issue of a new social assessment, Amira Abdelmageed, IRC Program Manager, testified that IRC is not required to do a new social assessment because the 2021 social assessment was done to establish claimant's regional center eligibility. Claimant, further, had the opportunity through annual IPPs to report changes in her condition to facilitate the delivery of supports and services.

12. Claimant's mother, also, questioned why claimant's case wasn't transferred to the Kern County or Fresno County catchment area. It seems, however, that claimant did not make this request. At the hearing, IRC agreed to address transferring claimant's case to this catchment area if the request is made.

LEGAL CONCLUSIONS

Purpose of the Lanterman Act

1. The purpose of the Lanterman Developmental Disabilities Act (Lanterman Act) is to provide a "pattern of facilities and services . . . sufficiently complete to meet the needs of each person with developmental disabilities, regardless of age or degree of handicap, and at each stage of life." (Welf. & Inst. Code § 4501; *Association of Retarded Citizens v. Department of Developmental Services* (1985) 38 Cal.3d 384, 388.)

Burden and Standard of Proof

2. Each party asserting a claim or defense has the burden of proof for establishing the facts essential to that specific claim or defense. (Evid. Code, §§ 110, 115, 500; *McCoy v. Bd. of Retirement* (1986) 183 Cal.App.3d 1044, 1051, footnote 5.) In this case, claimant bears the burden to prove she is entitled to travel reimbursement. The standard by which a party must prove those matters is "preponderance of the evidence." (Evid. Code, § 115.)

Evaluation

3. Claimant failed to establish by a preponderance of evidence that IRC is required to reimburse claimant for travel between February and March 2024 from her

family home and her STRTP placement at Promesa.¹ As the payor of last resort IRC is barred from funding services and supports funded by other agencies. (Welf. & Instit. Code, §§ 4659 and 4648, subd. (a)(8).) The Promesa STRTP provided transportation services for claimant, at least twice monthly, and indicated it would consider increasing the frequency of transportation if requested. Claimant's mother did not state that weekend visits twice a month were inadequate, that more than two weekend visits were needed, or that she asked Promesa to increase the frequency of transportation for weekend visits.

In addition, claimant did not establish that travel between February 23, 2024, and March 17, 2024, was a support or service, as defined in Welfare and Institutions Code section 4512, subdivision (b), "directed toward the alleviation" of claimant's "developmental disability" or toward her "social, personal, physical, or economic habilitation or rehabilitation ... or toward the achievement and maintenance of an independent, productive, and normal life."

Further, per IRC's POS, IRC is only required to fund transportation between claimant's home and a vendor who provides a service to meet the consumer's needs. The transportation claimant seeks reimbursement for was for weekend visits with her family, and not to access a service.

4. Regarding claimant's request for a new social assessment, this request is denied. IRC performed the 2021 social assessment to determine whether claimant was

¹ The Department of Social Services licenses and provides funding for STRTPs. <<https://www.cdss.ca.gov/inforesources/continuum-of-care-reform/short-term-residential-therapeutic-program> (retrieved August 28, 2024.)>

eligible for regional center services. (Welf. & Instit. Code, § 4643, subd. (a).) Once found eligible for regional center services a consumer remains eligible unless a comprehensive assessment establishes otherwise. (Welf. & Instit. Code, § 4643.5, subd. (b).) IRC found claimant eligible, so no further social assessments are needed. Supports and services claimant may need are determined through the IPP process and not through the social assessment. (Welf. & Inst. Code, § 4646, subd. (a).) To record changes in claimant's behaviors and needs to facilitate the delivery of supports and services to her, annual IPPs have been conducted and will be conducted.

5. Finally, concerning the issue of transferring claimant to a catchment area where she is placed, if claimant requests this transfer, IRC agreed to promptly address it.

ORDER

Claimant's appeal from Inland Regional Center's determination that it will not reimburse claimant for travel reimbursement is denied. Inland Regional Center shall not reimburse claimant for that purchase. Claimant's appeal from Inland Regional Center's decision to deny claimant's request for a new social assessment is also denied.

DATE: August 29, 2024

ABRAHAM M. LEVY
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 under 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.