

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

**In the Matter of the Request for Services of:**

**CLAIMANT**

**and**

**INLAND REGIONAL CENTER, Service Agency**

**DDS No. CS0017051**

**OAH No. 2024051009**

**DECISION**

Mary Agnes Matyszewski, Administrative Law Judge, Office of Administrative Hearings (OAH), State of California, heard this matter on July 29, 2024, by videoconference.

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

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

Oral and documentary evidence was received. The record was closed, and the matter was submitted for decision on July 29, 2024.

## **ISSUE**

Shall IRC be required to reimburse claimant \$428.94 he spent to purchase airline tickets?

## **FACTUAL FINDINGS**

### **Jurisdictional Matters**

1. On May 7, 2024, IRC issued its Notice of Action (NOA) denying claimant's request for reimbursement of \$428.94 for airline tickets purchased to travel from California to Tennessee. The NOA cited to Welfare and Institution Code sections 4519, subdivision (b); 4512, subdivision (b); 4648; and 4646, subdivision (a). The NOA advised claimant of his appeal rights.

2. On May 20, 2024, IRC received claimant's Appeals Tracking Details (appeal), appealing IRC's denial of his request for reimbursement. In the "Reason for Appeal(s)" section, claimant asserted:

Guidelines for social recreation funding were not provided to consumer or family prior to purchase of the airline tickets. The participation in the social activity in using air travel is appropriate for [claimant] and the funding request should be honored. Funding air travel was not banned until April 2024, which was from DDS. Tickets were purchased in February. Air travel is a social situation that provides several areas for [claimant] to learn, practice and develop his skills. In planning for air travel, [claimant] will need to learn the

clothing and other essential needs he will have when away from home, which includes identification, money, clothing, medications, items of personal preference. This experience will also provide an opportunity for [claimant] to plan his travel day to navigate local traffic, weather, and airport requirements such as time for parking, time for checking in, time to go through security and time to get to the gate before boarding. It also gives him an opportunity to board the plane in a timely fashion, and to follow the social norms of air travel, such as finding a seat, putting personal items away, waiting for the rest of the passengers to board, making room for others sitting close to him, getting his phone or other entertainment items and comfort items set up for the trip. It also provides an opportunity for [claimant] to learn about air safety, who to ask for help from, and rules to follow in an emergency. Air travel also provides [claimant] an opportunity to be organized. He will need to keep his travel documents and luggage tags in order so he can pick up his belongings at the end of his flights. Air travel also provides [claimant] an opportunity for interacting with his community in a typical way. Lots of people travel and he should be provided the same opportunity to do the same. [Claimant] has the opportunity to learn about not only the rules and norms for air travel as related to the airline, staff and airport, but also in relation to other travelers who will be in close proximity to him

throughout the experience. Below I have addressed the WIC codes provided as support to deny the reimbursement request.

Claimant then cited to Welfare and Institutions Code section 4519, subdivision (b), which prohibits funds to be spent on interstate travel "in connection with the purchase of any service outside" California. Claimant asserted he was not seeking or purchasing services outside the state, so that code section was not a basis to deny his request. Claimant cited to Welfare and Institutions Code section 4512, subdivision (b), arguing that air travel is a recreational activity and permits claimant to participate in a "normal life" activity. Claimant next cited to Welfare and Institutions Code sections 4648 and 4646, arguing that services should be flexible, tailored to the consumer, consider the family's responsibility, and asserted the family was not responsible for providing this service.

3. An informal meeting was held on June 5, 2024, and an Informal Meeting Decision was issued on June 28, 2024. IRC continued to deny the request for reimbursement.

4. On July 15, 2024, OAH granted IRC's motion consolidating claimant's matter with claimant's brother's matter.<sup>1</sup> The matters were consolidated for hearing, and this hearing followed. Separate decisions for each claimant will be issued pursuant to Welfare and Institutions Code section 4712.2, subdivision (b).

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<sup>1</sup> Claimant's brother is also a regional center client, and is appealing IRC's denial, as well. The decision regarding him is addressed in OAH No. 2024051013.

## **Evidence Introduced at Hearing**

5. Consumer Service Coordinator (CSC) Alan Jackson, Program Manager (PM) Angelica Serrano, and claimant's parents testified in this hearing, and documents were received. The factual findings reached herein are based on that evidence.

6. Claimant is currently 21 years old. His qualifying diagnosis was not identified at hearing. He resides in the family home with his parents and siblings, including an older brother who is also an IRC consumer.

7. IRC's Position Statement summarized the basis for its action. Claimant asserted that this document, plus the laws and policies introduced at hearing, exceeded the scope of the basis for the denial set forth in the NOA. Claimant testified that had that law been provided, claimant would not have "wasted everyone's time" and would have been better informed, especially if that information had been provided prior to seeking reimbursement. However, that argument was not persuasive because the NOA and the Informal Meeting Decision each referenced the laws that were introduced at hearing, and IRC's position regarding reimbursement never changed.

8. A February 4, 2024, email to IRC advised that the family had received claimant's brother's "[Financial Management Service (FMS)] email" but not claimant's FMS. In response thereto, CSC Jackson advised that he would "resubmit [claimant's brother's] email" and submit the authorization for the FMS "ASAP."

9. On February 10, 2024, claimant purchased a round-trip airline ticket to travel from California to Tennessee for \$428.94. Claimant's family was traveling to Tennessee to visit relatives.

10. Claimant was approved for the monthly social recreation stipend effective February 16, 2024. PM Serrano testified that the stipend program is a way for consumers to upload receipts for costs incurred to participate in social recreation activities. There are two parts to the program: (1) the purchase of the service, social recreation stipend, must first be approved, and then (2) the portal portion must be approved, which is where the families upload receipts for reimbursement. PM Serrano explained the portals also contain a list of pre-approved activities. Here, airplane travel was not listed on claimant's portal as a social recreational activity.

11. Claimant's March 22, 2024, Individual Program Plan (IPP), which was amended on March 31, 2024, and electronically signed on June 14, 2024, set forth information regarding claimant, including his strengths, goals, services and supports. Claimant was receiving preferred provider respite, in-home supportive services and Social Security Income which was adjusted depending on claimant's employment income. Claimant also received job coaching. He had been authorized to receive social recreation coaching and was approved for social recreation reimbursement provided by Elevate.<sup>2</sup> The IPP stated: "Activities should reflect the allowed and non-allowed [*sic*] activity list, provided to family via Elevate website and IRC website. CSC [Jackson] sent family lists on 04-17-2024. No airline or out of state activities are allowed, family is aware of approved activities provided." Notably, given that the IPP was not signed until after claimant requested reimbursement, it was not established that he was aware of this prohibition before purchasing the airline tickets or requesting reimbursement.

12. Claimant's father testified that he purchased the airline tickets in good faith, and the information he was learning at this hearing was "new to me." Claimant's

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<sup>2</sup> Elevate is an authorized FMS.

parents described the benefits claimant received from his interactions at the airport. He understood the law prohibited paying for travel to attend an out-of-state service, but claimant was using the airline travel as his service. The family's plans to travel to Tennessee were discussed at the IPP, and at no time were they told that reimbursement for purchasing airline tickets was "forbidden." CSC Jackson initially testified that he was not told at the IPP meeting that claimant had purchased airline tickets, but later acknowledged on cross-examination to having a discussion with the family regarding their upcoming family vacation to Tennessee.

13. On April 15, 2024, claimant uploaded an invoice for reimbursement for the airline ticket into the Elevate portal.<sup>3</sup> Claimant's mother disputed some of the activities listed in the "Activity/Recreational Type" portion of the portal as they are not ones claimant does. Claimant's parents do not know how that list was created. However, CSC Jackson testified the list of activities was created based upon discussions with claimant's family. CSC Jackson said other receipts uploaded by claimant were approved, for example receipts for a sporting event he attended.

14. On April 16, 2024, IRC advised claimant's brother that the Legislature had reinstated social recreation services effective July 1, 2022. (A copy of this letter sent to claimant was not introduced.) Those services had previously been prohibited during the state budget crisis. The Legislature had also added Welfare and Institutions Code section 4688.22 to further promote "the full inclusion and independence of individuals with developmental disabilities, including through opportunities for recreation based

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<sup>3</sup> Invoices for the airline tickets purchased for claimant and his brother were uploaded in the FMS portal.

on the consumers' needs, interests and goals identified in the [IPP]." IRC's letter advised that it had "implemented a program with Elevate, a Financial Management Service, to provide funding for participation in integrated social recreation activities." IRC's letter further advised that it would not fund non-allowable services and enclosed a list of allowable and non-allowable services with his letter.

15. A copy of the list of allowable and non-allowable services documented that "Out of state activities, unless agreed to by the Planning Team (clients near state borders)" were not allowed. PM Serrano explained that IRC will often fund services for clients who live near state borders because often the other state provides services, which are geographically much closer than those services provided in California. Claimant never received this list until after he had purchased the airline tickets and requested reimbursement. Claimant's father "would have liked to have gotten a lot of this ahead of time so I knew this information." In the future, he wishes they could be better informed and provided information so as to not waste anyone's time.

16. Emails between claimant and IRC documented their discussions regarding reimbursement, including IRC's email advising the request was denied because out-of-state travel was not allowed. In a May 2, 2024, email, claimant requested "justification as to why the reimbursement request" was denied. Claimant's mother testified that she had to request that IRC issue an NOA.

17. IRC's Purchase of Service Policy (POS), Section 1.2.4, subdivision (a), sets forth the policy regarding transportation. IRC "may purchase transportation services that will facilitate the services identified in the consumer's [IPP] 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 . . . [IRC] 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." As worded, airline travel does not qualify as an allowed transportation service because it is not a service from claimant's residence to a vendor. While the POS contains exceptions allowing IRC to authorize the purchase of services in certain circumstances, none of those applied in this matter. Claimant does receive funding for transportation services to take him from his home to his employment with his father being his preferred provider.

18. PM Serrano testified further that IRC must comply with federal laws and explained airline transportation for travel outside the state is not a federally funded service that IRC can authorize. It was also a service that was not requested before the cost was incurred, so it cannot be retroactively funded as no exceptions allowing retroactive reimbursement apply.

## **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 his airline ticket purchase should be reimbursed.

3. The standard by which a party must prove those matters is the “preponderance of the evidence” standard. (Evid. Code, § 115.)

4. A preponderance of the evidence means that the evidence on one side outweighs or is more than the evidence on the other side, not necessarily in number of witnesses or quantity, but in its persuasive effect on those to whom it is addressed. It is “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.)

## **The Lanterman Act, DDS, and Regional Centers**

5. The Lanterman Act is found at Welfare and Institutions Code section 4500 et seq.

6. Welfare and Institutions Code section 4501 sets forth the state’s responsibility and duties.

7. Welfare and Institutions Code section 4512 defines services and supports. Subdivision (b) states in part:

“Services and supports for persons with developmental disabilities” means specialized services and supports or special adaptations of generic services and supports directed toward the alleviation of a developmental disability or toward the social, personal, physical, or economic habilitation or rehabilitation of an individual with a developmental disability, or toward the achievement and

maintenance of an independent, productive, and normal life. The determination of which services and supports are necessary for each consumer shall be made through the individual program plan process.

8. DDS is the state agency responsible for carrying out the laws related to the care, custody and treatment of individuals with developmental disabilities under the Lanterman Act. (Welf. & Inst. Code, § 4416.) In order to comply with its statutory mandate, DDS contracts with private non-profit community agencies, known as "regional centers," to provide the developmentally disabled with "access to the services and supports best suited to them throughout their lifetime." (Welf. & Inst. Code, § 4620.)

9. A regional center's responsibilities to its consumers are set forth in Welfare and Institutions Code sections 4640-4659.2.

10. Welfare and Institution Code section 4519, subdivision (b), states: "Funds shall not be expended for the cost of interstate travel or transportation by regional center staff in connection with the purchase of any service outside the state unless authorized by the director or the director's designee."

11. Welfare and Institution Code section 4648 describes the activities regional center must perform to achieve the stated objectives in the consumer's IPP, and requires regional centers to be fiscally responsible. Subdivision (a)(2) states: "In implementing individual program plans, regional centers, through the planning team, shall first consider services and supports in natural community, home, work, and recreational settings."

12. Welfare and Institution Code section 4646, subdivision (a), requires that the services and supports “assist each consumer in achieving their [sic] personal outcomes and life goals and promote inclusion in the community.”

13. 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, and consider information regarding the individual’s need for service, barrier to access, and other information.

## **Evaluation**

14. Claimant failed to establish by a preponderance of evidence that IRC should reimburse him for his purchase of airline tickets. The service was purchased before claimant was approved for the social recreation stipend program. IRC may only pay retroactive service requests in limited circumstances, which do not apply here. Further, taking family members through an airport and teaching them how to navigate it are a family’s responsibility. It is a skill everyone going through an airport must learn, and one which parents who travel teach their children all the time. Navigating through an airport does not alleviate claimant’s developmental disability nor is it the most cost effective way to meet his stated socialization goal. That goal can be addressed in numerous other, fiscally responsible, ways, including taking him out in his community. There is nothing specialized about navigating an airport, as opposed to navigating places in his community, such that reimbursing him for his airline ticket offers him social rehabilitation he can find nowhere else. Claimant’s position regarding the skills that navigating an airport provide are similar to the skills he gains in his community.

While airports do present certain challenges not encountered in other places, those differences are insufficient to establish that claimant must have this service to address his needs. Moreover, the likely infrequency of claimant's airline travel demonstrated all the more why this is not an expense that should be reimbursed. Traveling on airplanes is not one of claimant's goals, nor something he is likely to regularly encounter, as opposed to community outings, which are more frequent as documented in his IPP. Those community outings can be funded, and will meet his needs. Navigating through airports, while helpful towards reaching his socialization goal, is not the only means by which to achieve it, and there are more economically feasible ways to do so. Finally, airline travel is not a federally reimbursable service, which prohibits IRC from funding it. IRC is also prohibited by its POS from funding this service as it is not a service that will "facilitate the services identified" in claimant's IPP.

Claimant is correct that Welfare and Institution Code section 4519, subdivision (b), is inapplicable because the airline tickets were not a cost of travel incurred "in connection with the purchase of any service outside the state," since claimant was not seeking any services in Tennessee. Instead, claimant asserted that traveling through the airport was claimant's social recreation service, and purchasing the airline ticket gave claimant access to the airport. However, this does not end the analysis because all of the applicable laws and IRC's POS must be considered against the backdrop of claimant's IPP. Here, the family has the responsibility to provide airport navigation services to claimant, navigating an airport does not address any needs set out in the IPP that cannot be addressed in less costly ways, the service is not federally refundable, refunding the purchase price of the tickets violates IRC's POS and would be a non-allowed retroactive reimbursement. For all these reasons, claimant's request must be denied.

## **ORDER**

Claimant's appeal from Inland Regional Center's determination that it will not reimburse claimant the \$428.94 he spent to purchase airline tickets is denied. IRC shall not reimburse him for that purchase.

DATE: August 8, 2024

MARY AGNES MATYSZEWSKI

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.