

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

**In the Matter of:**

**CLAIMANT**

**vs.**

**ALTA CALIFORNIA REGIONAL CENTER, Service Agency**

**DDS No. CS0018836**

**OAH No. 2024070051**

**DECISION**

Hearing Officer Coren D. Wong, Administrative Law Judge, Office of Administrative Hearings, State of California, heard this matter on August 8, 2024, in Sacramento, California.

Robin Black, Legal Services Manager, and DJ Weersing, Legal Services Specialist, represented Alta California Regional Center (ACRC), the service agency.

Claimant's parents represented him. Claimant also attended the hearing.

Evidence was received, the record closed, and the matter submitted for decision on August 8, 2024.

## **ISSUE**

Is ACRC required to fund claimant's request to renovate the family home by: (1) modifying a second-floor bathroom; (2) installing a ceiling hoist system in a second-floor bedroom; and (3) installing a platform lift?

## **FACTUAL FINDINGS**

### **Background**

#### **CLAIMANT'S FAMILY**

1. Claimant is a 12-year-old boy who lives with his parents. He is an only child. Father holds bachelor's and master's degrees and works as an engineer. Mother has a bachelor's degree and previously worked in accounting. She stopped working outside the home due to claimant's significant needs.

#### **CLAIMANT'S BIRTH**

2. Claimant was born in Wichita, Kansas. Mother received appropriate prenatal care throughout her pregnancy, and she avoided exposure to alcohol, drugs, and other toxins. She developed a blood clot in her placenta which required regular monitoring. She went into premature labor, and claimant was delivered at 25 weeks gestation. He weighed 1 pound, 11 ounces. He stayed in the neonatal intensive care unit (NICU) for the first 102 days of his life.

3. Claimant was intubated and on a ventilator in the NICU. He was extubated after three weeks. This caused a lack of oxygen, and he developed

necrotizing enterocolitis (NEC), a disease of the intestinal tract that causes the tissue lining in the intestine to become inflamed, die, and slough off. Claimant underwent surgery to remove part of his bowel at four weeks of age. Afterward, he was fed through a nasogastric tube – a type of medical catheter inserted through the nose and into the stomach – before transitioning to a bottle.

4. Claimant was discharged from the NICU after more than three months. Parents experienced extreme difficulties feeding him at home because he often refused to eat. They would rock him to sleep and then feed him small amounts of food, after which he vomited. Claimant was eventually diagnosed with failure-to-thrive. At approximately 12 months of age, he underwent surgery for placement of a gastrostomy tube (G-tube), a tube inserted through his stomach for delivery of nutrition directly to his stomach.

5. In addition to the surgeries discussed above, claimant had surgery to reconnect the portions of his bowel remaining after another portion was previously removed. He also underwent surgery to replace his G-tube. Claimant was diagnosed with bilateral hearing loss and had cochlear implants surgically placed. Later, he underwent surgery to place screws in his knees and ankles to lengthen his hamstrings. The screws were later removed.

6. As of May 2022, claimant's medical diagnoses included: premature birth at 25 weeks gestation, bronchopulmonary dysplasia, cerebral palsy, chronic gastroesophageal reflux disease, constipation, bilateral hearing impairment, developmental delay, G-tube dependent, growth hormone deficiency, pancreatic insufficiency, and speech delays.

## **CLAIMANT'S NEEDS**

7. Claimant is non-ambulatory. He uses a wheelchair and can independently maneuver himself. Claimant can pull himself to a standing position, but he has balance issues and cannot stand or walk without assistance. He wears bilateral Ankle Foot Orthoses, tall braces that stretch almost to his knees. He can sit upright without support.

8. Claimant is non-verbal. He makes sounds but does not form words. He communicates his wants and needs by grunting, crying, leading, and body language. He has learned some basic sign language, such as the signs for "yes," "hi," and "more."

9. Claimant does not engage in reciprocal conversation. He cannot tell others when he is hurt or sick. Parents know something is wrong with him because he becomes more quiet and less animated. He has limited facial expressions and is usually smiling. Claimant uses an augmentative and alternative communication device to communicate at school. Parents would like to get one for home. He initiates interaction with others by approaching them and being near them or holding their hand.

10. Claimant requires total and constant care. He cannot perform activities of daily living without assistance. His parents dress him while he makes helpful movements such as raising his arms. He cannot manipulate zippers, snaps, or buttons, and he cannot tie his shoelaces. Claimant is not toilet trained and wears diapers. He does not communicate when his diaper needs to be changed. He requires complete assistance when bathing, brushing his teeth, and performing all hygiene tasks. Claimant does not take any food by mouth and receives all nutrition through a G-tube. He can take a few sips of thick liquids by mouth.

11. Claimant has no sense of fear or danger, and he has no concept of “stranger danger.” He is a friendly person and often approaches strangers. He has attempted to leave the family home unaccompanied. He can open the garage door by himself, and he has attempted to go outside without Parents’ knowledge. Claimant manipulates his wheelchair through parking lots without recognizing the need to watch for traffic. He has wandered off in public.

12. Claimant can identify some basic body parts and facial features by touching them. He can do the same with basic animals, such as cats, dogs, ducks, and frogs. He cannot identify letters of the alphabet, count, or identify numbers. He does, however, recognize his written name.

### **CLAIMANT’S ELIGIBILITY FOR REGIONAL CENTER SERVICES**

13. ACRC’s eligibility team determined claimant was eligible for regional center services on July 5, 2022, based on the developmental disabilities of moderate intellectual disability and moderate spastic cerebral palsy affecting both legs. His disabilities cause substantial disabilities in self-care, receptive and expressive language, learning, mobility, self-direction, and capacity for independent living.

14. Nancy Saber was claimant’s original service coordinator with ACRC. Haley Addington took over as his service coordinator for a brief time before Kenya Rodriguez-Montalvo assumed those duties in September 2023. Ms. Rodriguez-Montalvo remains claimant’s service coordinator. Katie Robert has always been claimant’s client services manager.

15. Claimant’s current services and supports include a Medic Alert bracelet, annual Medic Alert membership, and incontinence wipes. The planning team recently agreed to explore funding social recreation, respite, and durable medical equipment.

## **GENERIC RESOURCES**

16. Claimant was referred to ACRC by the Elk Grove Unified School District (District). He began receiving special education services in Kansas at three years of age. The District continued providing services after he relocated. His current individual education program classification is multiple disabilities. Claimant was in the sixth grade at Arlene Hein Elementary School for the 2023/2024 school year. He was in a "level 4 self-contained classroom" and received speech therapy, occupational therapy, and physical therapy.

17. Claimant's health insurance is through Care First Blue Cross/Blue Shield and Medi-Cal. His dental care is provided by Kids Care Dental. Claimant receives 265.52 hours of In-Home Supportive Services each month, and Mother is his provider. He also receives services from California Children's Services.

## **The Family Home**

### **KANSAS**

18. Claimant's first home was in Bel Aire, Kansas. It was a single-story, had five bedrooms and four bathrooms, and was 4,813 square feet. He did not have access to the medical care he required nearby, so his parents drove to Wichita for most treatment. For orthopedic treatment, they drove seven to eight hours to Shriners Hospitals for Children in St. Louis, Missouri. They often drove back the same day to save the cost of lodging.

19. The frequent travel, numerous absences from work, and harsh Kansas winters became increasingly more difficult for Parents. Additionally, they were involved in a serious car accident while driving to St. Louis. Parents began exploring relocating

to an area closer to medical care and with more temperate winters. One of claimant's physicians mentioned Shriners Hospitals for Children in Sacramento, California. They researched Sacramento and discovered the hospital is across the street from UC Davis Children's Hospital. Parents decided to relocate.

### **RELOCATION TO CALIFORNIA**

20. Parents and claimant moved to an apartment in Elk Grove, California, in February 2022. Parents established claimant's medical care with Shriners Hospitals for Children in Sacramento and UC Davis Medical Group, the medical group for UC Davis Health's primary and specialty care physicians.

21. The apartment was intended to be a temporary home while Parents searched for one to purchase. They looked for a single-story home, but they found a limited inventory that did not include any. At the same time, interest rates for home loans doubled during their first few months in California.

### **CURRENT FAMILY HOME**

22. Parents eventually found a two-story home in Elk Grove, made an offer, and their offer was accepted. Prior to the close of escrow, a single-story home became available in the same community, and parents asked the builder if they could buy that home instead. The builder told them they would lose their \$50,000 deposit if they switched homes. Parents could not afford to lose their deposit. They closed escrow in December 2022.

23. The family home in Elk Grove has four bedrooms and three bathrooms and is 3,129 square feet. Ingress and egress are through the first floor, which includes the kitchen, formal dining room, great room, and a bedroom and bathroom. The

laundry room and remaining bedrooms and bathrooms are upstairs. Claimant's bedroom is across the hall from his parents', and his bathroom is next door between his bedroom and the fourth bedroom.

24. Mother can transfer claimant in and out of his wheelchair, but he is too heavy for her to carry up and down the stairs. Parents do not have family nearby, and they do not receive any outside help caring for claimant. Father is the only one who carries claimant up and down the stairs. On days Father leaves for work, he carries claimant downstairs before leaving. Claimant remains downstairs until Father returns from work.

## **Request for Home Modifications**

25. On July 27 and August 19, 2022, Ms. Saber, Parents, and claimant met as a planning team to create claimant's first Individual Program Plan (IPP). At the time, the family was living in the apartment, but Parents informed Ms. Saber they were searching for a home to purchase. Based on the available inventory, they further advised they would probably purchase a two-story home. They asked about ACRC funding the installation of a stair lift or vertical platform lift. A stair lift consists of a chair attached to a rail system on a stairway. The rail system is generally attached to the treads of the stairway. A vertical platform lift works similarly to an elevator, but has an open cab, except for panels on the side of the platform.

26. The planning team documented the following status of claimant's durable medical needs in his IPP:

[Claimant] has durable medical needs that need to be assessed. Capuchino [Therapy] will assess items such as a new wheelchair, mobility device, activity chair, home



modifications, walker, vehicle medications, etc. Capuchino will assist in categorizing funding sources, what Alta can fund and what CCS and Medi-Cal will be responsible for. SC staffed with CSM for approval to submit a referral to Capuchino Therapy.

27. The planning team identified the objective for claimant as assessing and meeting his durable medical needs. It further identified the following services and supports to help accomplish the objective:

5.1 SC will submit a referral to Capuchino Therapy for an [sic] equipment and environmental evaluations at 12 hours total, effective through 3/2023.

5.2 SC will staff with DME support team to review recommendations.

28. On December 7, 2022, Father notified Ms. Saber he was getting ready to purchase a home in Elk Grove and was only able to find a two-story home. He followed up to his request for installation of a stair lift. Ms. Saber agreed to discuss his request with ACRC's durable medical equipment (DME) committee.

29. On February 3, 2023, Father contacted Ms. Saber regarding the status of his request for a vertical platform lift. Ms. Saber responded that Capuchino Therapy will perform a physical therapy/occupational therapy assessment (PT/OT assessment) of the family home and prepare a written report with recommendations for renovations. Ms. Saber will present the report to the DME committee for review and consideration.

30. Father and Ms. Saber met on March 27, 2023, as claimant's planning team to prepare his second IPP. They documented the following status of claimant's durable medical needs in his IPP:

[Claimant] has durable medical needs that need to be assessed. Capuchino assessed last year the following: wheelchair, mobility device, activity chair, home modifications, sleep safe bed, walker, vehicle modification. Alta funded: Sleep Safe Bed, van conversion, Medi-Cal and CCS funded the wheelchair, [walker], activity chair, shower care, and toilet frame. [Claimant's] family is now requesting to assess his transfer needs from up and down the home stairs.

31. The planning team identified the objective for claimant as assessing and meeting his durable medical needs. It further identified the following services and supports to help accomplish the objective:

5.1 SC will submit a referral to Capuchino Therapy for an [s/c] equipment and environmental evaluations at 8 hours total, effective through 3/2024.

5.2 SC will staff with DME support team to review recommendations.

5.3 SC will staff with the [DME] committee for support.

## **Capuchino Therapy's PT/OT Assessment**

32. Elizabeth Brushwyler, MPT, a physical therapist with Capuchino Therapy, visited the family home April 24, 2023, to perform a PT/OT assessment. She prepared a written report of her assessment. She made recommendations for home modifications to enable claimant to travel safely between the first and second floors. Ms. Saber, Mother, and claimant were present during the assessment.

33. Claimant uses a manual wheelchair at home and in the community. He can walk using a walker but is limited to 15-minute intervals. He enters and exits his home using a ramp in the attached garage. He cannot walk up or down the stairs due to his inability to walk independently and significant fall risk.

34. Claimant uses a standard shower seat and a swivel bath chair when bathing. Father lifts him in and out of the shower seat and bath chair, as well as the bathtub when he does not use either device.

35. Claimant has good strength in his upper extremities, neck, and head. He has fair strength in his lower extremities and core. His ability to maintain balance while sitting still is good, but his ability to maintain balance while sitting and performing various tasks is fair. He has a poor ability to maintain balance while standing still, and he is unable to maintain balance while standing and moving.

36. Claimant is totally dependent on others for meal preparation. He receives most of his nutrition through a G-tube. He relies on others for 75 percent assistance with bathing, dressing his lower body, eating, and toileting, and he relies on others for 50 percent assistance with grooming and dressing his upper body.

37. Claimant can roll from his stomach to his back independently. He can transition from sitting to standing with 25 percent assistance, but he requires 50 percent assistance when moving from his bed to a chair. He is completely dependent on others when getting in and out of a car, in and out of the bathtub, and on and off the toilet. Father currently can lift claimant, but Mother cannot.

38. Ms. Brushwyler identified the following areas of concern for claimant: (1) decreased posture; (2) decreased gross motor skills; (3) decreased activities of daily living skills; (4) decreased safety; (5) decreased fine motor skills; (6) decreased strength/coordination; (7) inability to access environments; (8) decreased functional mobility/transfers; and (9) unsafe practices for caregiver. Due to those concerns, she created the following list of concerns:

1. All bedrooms are on the second floor. [Claimant's] bedroom and bathroom are next to each other. Currently[,] dad must carry him up and down the stairs. His mom is unable to do this as he weighs over 60 pounds.

2. [Claimant] is very insecure with movement. He does well in his wheelchair, but even in the family van, when family places him in the third row he becomes very anxious. He also does not enjoy the school bus movement. As a result, a stair lift would be very difficult for [claimant] to tolerate. And according to mom, they most likely would not use it.

3. Vertical platform lift will fit in the front entry [sic] way and upstairs loft position. This will allow his wheelchair to be used both downstairs and upstairs.

4. A stair lift would still require family to lift him (>60 pounds) and secure him on the lift chair which is even more difficult when he is unable to assist and is fearful.

39. Ms. Brushwyler recommended a vertical platform lift that would allow claimant sitting in his wheelchair and a parent to ride between floors. She further recommended bathroom modifications because Father carries claimant in and out of the bathroom.

### **ACRC's Evaluation of OT/PT Assessment**

40. Ms. Saber reviewed Ms. Brushwyler's PT/OT assessment, reviewed ACRC's policies and procedures for home renovations, and discussed the matter with Ms. Robert. After, she presented the assessment to the DME committee. The committee supported "moving forward with the platform lift and bathroom modification." The committee directed Ms. Saber to obtain a scope of work for the recommended modifications and return for further review.

### **Staff Estimate/Scope of Work**

41. MTB Consulting (MTB) prepared a staff estimate/scope of work for renovating the family home in accordance with Ms. Brushwyler's recommendations. The scope of work included: (1) installing a platform lift with the appropriate power supply and call/send stations on each floor, constructing an appropriate structure on the second floor to interface with the lift, and providing the necessary engineering plans (\$130,000); (2) widening the doorway to claimant's bathroom and installing a barn door, removing the wall between the toilet/shower room and installing a tile barrier-free shower, installing two grab bars in the shower, laying tile on the bathroom floor and three feet up the wall next to the shower, modifying the existing vanity by

replacing the countertop and lowering its height, installing a swing away shower rod, installing an exhaust fan equipped with a light and heater, installing two LED can lights, and painting the bathroom walls and ceiling and patching, repairing, and texturing the drywall to match the rest of the house (\$60,000); and (3) installing a ceiling hoist system with two slings and a spreader bar in claimant's bathroom (\$25,000). MTB's total estimated cost was \$224,500, which included all necessary permits.

42. Ms. Rodriguez-Montalvo reviewed MTB's staff estimate/scope of work and scheduled the matter for a second review with the DME committee. The DME committee approved MTB's staff estimate/scope of work, authorized Ms. Rodriguez-Montalvo to obtain additional bids for the renovations, and asked her to return to with the additional bids.

43. In the meantime, Parents, claimant, and Ms. Rodriguez-Montalvo met as a planning team to prepare claimant's current IPP. They documented the following regarding the status of claimant's durable medical needs:

[Claimant] has durable medical needs that need to be assessed. Capuchino has assessed the following so far: wheelchair, mobility device, activity chair, home modifications, sleep safe bed, walker, vehicle modification. ACRC has funded the: Sleep Safe Bed, van conversion. Medi-Cal and CCS funded the wheelchair, [walker], activity chair, shower chair, and toilet frame.

[Claimant] has been assessed for environmental assessment on 04/24/23, for a Lyft [*sic*] system and a bathroom

modification. This was staffed on 06/01/2023[,] and was supported. Service Coordinator is to attend a second staffing with scope of work. [Parents] would also like to be assessed for a ramp so that [claimant] can have access to the backyard.

44. The planning team identified the following objective for claimant: “[claimant’s] Durable Medical needs will be assessed and met, through 3/2025.” They identified the following schedule of services and supports for accomplishing that objective:

6.1 [Claimant’s] primary physician will prescribe any needed adaptive equipment and medical supplies.

6.2 If funding from generic resources is not available[,] ACRC Service Coordinator will request ACRC funding for occupation[al] therapy (OT) evaluation for needed equipment.

6.3 [Claimant’s] family will seek generic resources and private funding for all medical supplies and adaptive equipment.

6.4 ACRC Service Coordinator will coordinate collaboration between the evaluating OT and DME vendor to access the equipment from Medi-Cal or any other available generic funding source as appropriate.

6.5 Based on [claimant's] condition of eligibility, if there are no generic resources for prescribed equipment and/or medical supplies, pending assessment and need, ACRC Service Coordinator will request ACRC funding for ramp per ACRC Service Policies.

6.6 Service Coordinator will staff with the DME committee for support.

6.7 ACRC Service Coordinator will review progress.

45. Ms. Rodriguez-Montalvo asked MTB to obtain additional bids for the proposed renovations. MTB solicited bids from five contractors, three of whom responded. The bids were for \$262,100, \$265,000, and \$285,000. MTB submitted a final bid in which it documented the three bids and proposed a total project cost of \$296,173, which consisted of the lowest bid (\$262,100) and MTB's fee for serving as project manager (\$34,073).

46. Ms. Rodriguez-Montalvo presented MTB's final bid to the DME committee for review. The committee decided not to make a final decision on the proposed renovations and to seek input from ACRC's upper management due to the large increase in the proposed cost.

47. Jennifer Bloom is a client services director at ACRC. She became involved in reviewing claimant's request for home modifications after the DME committee's third review. Her review included discussions with ACRC's executive director. Her consideration of claimant's request was guided by ACRC's obligation to provide services to help him meet his IPP objectives in the most cost-effective and beneficial manner.



48. Ms. Bloom ultimately concluded ACRC could not fund claimant's request for home renovations because it was unclear whether a vertical platform lift was the least costly option for providing him access to the second floor of the family home. Specifically, Ms. Brushwyler rejected a stair lift as an alternative, and Ms. Bloom's understanding was that claimant did not consider that option. Additionally, Parents chose to buy a two-story home knowing claimant's physical limitations, so public funds should not be available to renovate the home. Finally, ACRC learned there is a bedroom and bathroom downstairs, contrary to Ms. Brushwyler's conclusion. ACRC offered to have Capuchino Therapy assess the entirety of the family home's downstairs to determine any renovations that would be required to provide claimant access. Parents declined the offer.

### **Notice of Action and Appeal Request Form**

49. On June 24, 2024, Ms. Rodriguez-Montalvo prepared a Notice of Action (NOA) notifying claimant: "ACRC is denying your request to pay for a bathroom modification and ceiling hoist system on the second floor of the family home, and a platform lift to transport [you] from the first to the second floor of the home to use a bedroom and bathroom on that floor." She explained:

ACRC supports environmental accessibility for clients served based on an assessment of need which includes multiple variables including, but not limited to, cost effectiveness and least restrictive environment. Choosing to purchase a two-story home in 2023 with a floor plan that does not support the physical needs of the clients served by ACRC was a personal/family choice. Regional centers are required to ensure the cost-effective use of public funds. It is not

cost-effective for the regional center to use public funds to pay for modifications that would not have been needed if a home that was able to support the physical needs of [claimant] had been chosen.

50. Ms. Rodriguez-Montalvo sent a cover letter explaining claimant's right to appeal ACRC's decision with the NOA. She included a blank Appeal Request Form and a Lanterman Appeals Information Packet explaining the appeal process. Claimant filed an Appeal Request Form two days after Ms. Rodriguez-Montalvo issued the NOA.

## **Parents' Testimony**

51. Parents' testimony was incorporated into the factual findings above. Additionally, Father explained he spoke to the builder of the community in which the family home is located when he first started looking for homes and expressed interest in a single-story because of claimant's physical limitations. The builder told him there were none.

52. Parents continued searching for a single-story home without any success. The housing inventory was limited, and they felt they had no choice but to buy a two-story home. Additionally, interest rates on home loans were continuing to rise, and they wanted to avoid further increases. During escrow, Father learned a single-story home in the same community became available. He asked about switching houses. The builder told him the only way he could switch houses was to forfeit his \$50,000 deposit. Father could not afford to lose that much money.

53. Father is the only one physically capable of carrying claimant up and down the stairs. He is uncertain how much longer his back will allow him to do so. Though Mother cannot carry claimant up and down the stairs, she can move him

between his bed and wheelchair and between a chair and his wheelchair. She has strained her back doing so on two separate occasions.

54. Claimant currently sleeps in the master bedroom with Parents. They believe it would be unsafe for him to sleep downstairs because he is unable to call out for help. Additionally, he frequently regurgitates while sleeping, so they constantly check to ensure his airway is clear. Also, claimant frequently soils his diaper at night, they need to change him, and he cannot call out when his diaper needs to be changed. Lastly, there are numerous medications Parents must give him throughout the night.

55. Father rejected ACRC's proposal to use a video camera to monitor claimant while sleeping downstairs. He explained a camera will not be able to alert Parents to claimant's need for a diaper change. He also explained using a baby monitor to listen for claimant is not practical. They previously did that and were constantly going up and down the stairs.

56. Mother described additional difficulties she has after Father leaves for work. She is unable to carry claimant upstairs and is uncomfortable leaving him alone downstairs. Therefore, she cannot shower, change clothes, or do the laundry. Claimant's gastrointestinal ailments cause him to gag and regurgitate, and she worries about him choking. Additionally, he has left the home unattended before. Furthermore, he does not understand the dangers of playing with the stove or other dangerous items in the house such as scissors and knives. Claimant once fell off the couch and chipped a tooth while Mother was cooking nearby in the kitchen. He was unable to call out for help or make any noise to alert her, and she happened to find him struggling on the floor.

## **First Floor Bedroom and Bathroom**

57. It was undisputed Ms. Brushwyler's statement in her PT/OT assessment "all bedrooms are on the second floor" of the family home was incorrect. There is a bedroom and bathroom downstairs. She did not testify, and there was no evidence anyone asked her about her conclusion. ACRC offered to fund an assessment of the downstairs to determine what modifications are necessary to make the downstairs bedroom and bathroom to accessible to claimant. Parents declined the offer.

## **Analysis**

58. ACRC is required to provide a wide range of services and supports to help claimant achieve his IPP's objectives. Those services and supports should focus on Parents' and claimant's needs and preferences and helping him remain in the family home. However, services and supports are funded with public funds. Therefore, ACRC is not required to provide all services and supports claimant requests, and those provided must reflect the cost-effective use of public resources.

59. In February 2022, Parents and claimant relocated to Elk Grove. Father persuasively explained Parents searched for a single-story home to purchase but could not find one. Additionally, interest rates for home loans were rapidly increasing. Under the circumstances, it was not unreasonable for Parents to purchase a two-story home. Although a one-story home became available in the same community while Parents were in escrow, they would have lost their \$50,000 deposit had they switched homes. It would have been unreasonable to expect them to forfeit such a large sum of money.

60. Claimant's bedroom and bathroom in the family home are located on the second floor across from Parents. He requested ACRC fund a vertical platform lift so he

can access his bedroom and bathroom. Currently, Father carries claimant up and down the stairs. Mother physically cannot.

61. ACRC asked Capuchino Therapy to perform a PT/OT assessment of the family home and recommend modifications to make the home more accessible to claimant. Ms. Brushwyler performed her assessment and concluded, "All bedrooms are on the second floor." Therefore, she recommended installation of a vertical platform lift to allow claimant access to the second floor. She explained the stair lift was not an option because it would require Mother to lift claimant into the seat, which Mother cannot physically do. Ms. Brushwyler also recommended modifications to claimant's bathroom because "currently family must carry him in and out of the bathroom."

62. Ms. Brushwyler's conclusion about the location of the bedrooms was wrong, and there is a bedroom and bathroom downstairs. She did not testify, and no one asked her about her conclusion. Therefore, it is unknown whether her recommendations were based on the erroneous conclusion that claimant's bedroom must be on the second floor or she evaluated the downstairs bedroom and concluded it is unsuitable for him. There was no evidence of the latter.

63. Claimant has the burden of proving ACRC is required to fund modifications to his second-floor bathroom, installation of a ceiling hoist system, and installation of a vertical platform lift by a preponderance of the evidence. Therefore, he must establish ACRC's funding the renovation of the second floor would be the most cost-effective and beneficial use of public funds to accomplish his IPP's objectives.

64. Claimant did not meet his burden. There was no evidence whether modifications could be made so the downstairs bedroom and bathroom are accessible to claimant and, if not, they could be made accessible. Therefore, there was insufficient

evidence to support the conclusion that funding the proposed renovation would be the most cost-effective and beneficial way to assist claimant with accomplishing his IPP's goals.

65. ACRC offered to have the downstairs bedroom and bathroom assessed to determine the different possible modifications available to make them accessible to claimant. Parents declined the offer. ACRC shall fund an assessment of the entire family home to determine what modifications are available to make the home accessible to claimant. Thereafter, ACRC shall immediately convene a planning team to consider the assessment, determine the most cost-effective and beneficial modifications needed to make the home accessible to claimant, and fund those modifications.

## **LEGAL CONCLUSIONS**

### **Applicable Burden/Standard of Proof**

1. Claimant has the burden of proving ACRC is required to fund his request for bathroom modifications and installation of a ceiling hoist system and vertical platform lift by a preponderance of the evidence. (*Lindsay v. San Diego Retirement Bd.* (1964) 231 Cal.App.2d 156, 161 [the party seeking government benefits has the burden of proving entitlement to such benefits]; Evid. Code, § 115 [the standard of proof is preponderance of the evidence, unless otherwise provided by law].) The preponderance of the evidence standard requires claimant to produce evidence of such weight that, when balanced against evidence to the contrary, is more persuasive. (*People ex rel. Brown v. Tri-Union Seafoods, LLC* (2009) 171 Cal.App.4th 1549, 1567.) In

other words, he must prove it is more likely than not ACRC is required to fund the modifications. (*Lillian F. v. Super. Ct.* (1984) 160 Cal.App.3d 314, 320.)

## **Applicable Law**

2. Under the Lanterman Developmental Disabilities Services 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].” (*Assn. 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; *Assn. for Retarded Citizens v. Dept. of Developmental Services*, *supra*, 38 Cal.3d at p. 389.) The planning process includes “gathering information and conducting assessments to determine the life goals, capabilities and strengths, preferences, barriers, and concerns or problems of the [consumer].” (Welf. & Inst. Code, § 4646.5, subd. (a)(1).)

4. 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, subd. (a)(1), (2), & (4), 4646.5, subd. (a)(2), 4512, subd. (b), & 4648, subd. (a)(6)(E).) The regional center must "secure services and supports that meet the needs of the consumer" within the context of the IPP. (Welf. & Inst. Code, § 4648, subd. (a)(1).) The "highest preference [shall be given] to those services and supports that would allow minors with developmental disabilities to live with their families . . . and . . . to interact with persons without disabilities in positive, meaningful ways." (Welf. & Inst. Code, § 4648, subd. (a)(1); see Welf. & Inst. Code, §§ 4646.5, subd. (a)(3), & 4685, subd. (c)(1).)

5. Although regional centers must provide a wide range of services to facilitate implementation of a consumer's IPP, they must do so in a cost-effective manner. (Welf. & Inst. Code, §§ 4640.7, subd. (b), & 4646, subd. (a), & 4685, subd. (c)(3)(A).) They must "identify and pursue all possible sources of funding for consumers receiving regional center services." (Welf. & Inst. Code, § 4659, subd. (a).) Regional centers are not required to provide all services a consumer may require, but are required to "find innovative and economical methods of achieving the objectives" of the IPP. (Welf. & Inst. Code, § 4651.)

## **Conclusion**

6. Claimant has the right to live in the family home with Parents. Although Capuchino Therapy's proposed modifications would support that right by providing him access to the second-floor bedroom and bathroom without having to rely on Father to carry him, he did not prove funding such modifications would be the most cost-effective and beneficial use of public funds. Specifically, there was no evidence whether modifications could be made to other areas of the home to eliminate claimant's need to access the second floor or rely on someone to carry him.



7. ACRC shall fund an assessment of the entire family home to determine what modifications are available to make the home accessible to claimant. Thereafter, ACRC shall immediately convene a planning team to consider the assessment, determine the most cost-effective and beneficial modifications needed to make the home accessible to claimant, and fund those modifications.

## **ORDER**

Claimant's appeal of Alta California Regional Center's June 24, 2024 Notice of Action is PARTIALLY GRANTED. ACRC shall fund an assessment of the entire family home to determine what modifications are available to make the home accessible to claimant. Thereafter, ACRC shall immediately convene a planning team to consider the assessment, determine the most cost-effective and beneficial modifications needed to make the home accessible to claimant, and fund those modifications.

DATE: August 20, 2024

COREN D. WONG

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.