

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

In the Matter of:

Claimant,

and

Frank D. Lanterman Regional Center,

Service Agency.

DDS No. CS0019145

OAH No. 2024070466

DECISION

Ji-Lan Zang, Administrative Law Judge (ALJ), Office of Administrative Hearings (OAH), State of California, heard this matter on October 3, 2024, and January 24, 2025, by videoconference.

Claimant was represented by her authorized representative (AR) Kimi Yamamoto on October 3, 2024. On October 6, 2024, however, Ms. Yamamoto substituted out as claimant's AR. Claimant's brother (Brother) represented claimant on January 24, 2025. Claimant and her family members are identified by titles to protect their privacy.

Frank D. Lanterman Regional Center (FDLRC) was represented by Jessica Glassman, Attorney at Law, on October 3, 2024, and by Rhiannon Maycomber, Assistant Director (AD) of Adult Service Coordination, on January 24, 2025.

Testimony and documentary evidence were received. The record was closed, and the matter was submitted for decision on January 24, 2025.

ISSUE

Was FDLRC required to fund claimant's placement at College Hospital's Developmental Delay Services (DDMI) unit as of October 3, 2024?

EVIDENCE RELIED ON

Documentary: Service Agency's exhibits 1 through 18.

Testimonial: Shynice Gray, Consumer Services Coordinator (CSC); Davonna Jenkins, Regional Manager (RM) of the Adult Services Unit, AD Maycomber; and Brother.

FACTUAL FINDINGS

Jurisdictional Matters

1. Claimant is a 48-year-old un-conserved female who is eligible for regional center services based on diagnoses of Down Syndrome and Mild Intellectual Disability. She also suffers from Schizophrenia. Claimant lives at home with her father and mother.

2. On June 28, 2024, FDLRC sent a Notice of Action (NOA) to claimant, notifying her that it was denying her funding for her placement at the College Hospital's DDMI unit in June 2024. (Ex. 1.) On July 5, 2024, claimant filed a fair hearing request appealing the NOA.

3. At the hearing, the parties agreed that in July 2024, claimant was discharged from College Hospital without ever having been placed in the DDMI unit, and claimant was not seeking funding for her June 2024 stay at College Hospital. However, claimant's AR asserted that claimant needed imminent placement at College Hospital's DDMI unit as of the date of the hearing on October 3, 2024. Therefore, the parties stipulated FDLRC's funding for claimant's placement at the DDMI unit as of October 3, 2024, as the issue for the hearing.

4. All jurisdictional requirements have been met.

Background

5. Claimant is verbal and walks on her own. Claimant requires constant supervision to prevent injury to herself when she is in an unfamiliar environment. However, claimant engages in activities and outings with family members with no prompting. She can make simple meals for herself, wash dishes, do laundry, and clean her own room. Claimant's schizophrenia causes hallucinations and psychosis that can interfere with her daily life. She is currently on psychotropic medications for the treatment of her schizophrenia.

6. Claimant has indicated, both in her triennial Individual Program Plan (IPP), dated May 18, 2022, and in her Annual Report, dated March 14, 2024, that her goal is to live with her parents. (Ex. 3 & 4.)

Claimant's Family's Requests for Placement in the DDMI Unit

7. On May 16, 2024, Brother informed CSC Gray that claimant was not taking her psychotropic medication, and she was becoming verbally aggressive towards her family members. Brother believed claimant was disrupting the household and requested claimant to be placed in College Hospital's DDMI unit. (Ex. 16, p. A203.) While the DDMI unit specializes in the treatment of patients with developmental disabilities, it is a locked psychiatric facility. During this conversation, CSC Gray explained to Brother that regional centers do not intervene in the placement of patients in psychiatric facilities and the family must consult with claimant's physician regarding decisions involving her mental health. (*Id.*, p. A204.)

8. After this May 16, 2024 conversation with Brother, FDLRC provided Crisis Support Services (CSS), which is a 24/7 crisis intervention support, to claimant's family through Stephanie Young Consultants.

9. On June 11, 2024, CSC Gray, RM Jenkins, Brother, and Ms. Yamamoto participated in a conference call in which Brother requested a referral for claimant to be placed in the College Hospital's DDMI unit. According to the consumer ID Note (notes documenting FDLRC's activities in claimant's case) dated the same date, "RM [Jenkins] explained to the family that the regional center will need additional documentation and referral from a psychiatrist to better support the request and that the family will need to have [claimant] to be evaluated by a mental health professional to better determine the need of a College [H]ospital referral. [SC Gray] and RM [Jenkins] explained that there are more least restrictive options for [claimant] that need to be explore such as residential placement and mental health support." (Ex. 16, p. A208.)

10. On June 14, 2024, RM Jenkins corresponded with Ms. Yamamoto by email to respond to claimant's family's questions about placement in the DDMI unit. RM Jenkins again clarified that only claimant's treating physician would be able to determine whether claimant should be placed under any psychiatric holds or in any psychiatric facility. (Ex. 16, p. A212.)

Claimant's Psychiatric Holds

11. On June 17, 2024, emergency responders were called to claimant's home for an evaluation because she was not eating, sleeping, drinking, or toileting. Claimant was eventually transported to Good Samaritan Hospital and put on an involuntary, 72-hour psychiatric hold at the hospital.

12. On June 19, 2024, claimant was again put on another involuntary psychiatric hold at College Hospital. However, claimant stayed with the general population, even though her family wanted her to stay at the DDMI unit. According to claimant's Brother, College Hospital staff advised him that FDLRC must authorize claimant's admission into the DDMI unit. When he attempted to obtain authorization from FDLRC, however, FDLRC refused to do so because regional center staff did not believe that the DDMI unit was the "least restrictive environment" for claimant.

13. According to FDLRC, after CSC Gray learned of claimant's hospitalization, she met with the FDLRC's Community Living Options Resource Committee (CLORC) to explore residential placement options. On June 21, 2024, CLORC identified five Specialized Residential Facilities that could meet claimant's needs and two of these homes accepted claimant as a referral. CSC Gray also explored Supported Living Service agencies for claimant. Moreover, FDLRC never received any referrals or declarations from claimant's psychiatrist that claimant should be placed in College

Hospital's DDMI unit. Due to the lack of verification from claimant's psychiatrist and the availability of alternative residential placement options, FDLRC did not believe claimant's placement in College Hospital's DDMI unit was necessary or appropriate because regional centers are mandated by law to place clients in the least restrictive environment.

14. In July 2024, claimant was discharged from College Hospital without ever having been admitted into the DDMI unit. After her discharge, claimant has been living at her home with her parents.

FDLRC's Provision of Services and Claimant's Condition After Her Discharge

15. On July 10, 2024, after claimant returned home, FDLRC authorized Intensive Behavioral Services (IBS) for claimant on a 24/7 basis to support her in her home setting. According to the IBS provider, Maxim Healthcare Services (Maxim), the purpose of these services is to reduce claimant's maladaptive behaviors such as "tantrums, verbal aggression[,] and elopement like behaviors." (Ex. 11, p. A43.) Additionally, IBS is also intended to increase claimant's functional behaviors to eat and drink independently and to take her medication consistently.

16. Maxim's session notes for the months of August 2024 and September 2024 were admitted into evidence. (Exs. 13, 17 & 18.) These notes indicate claimant was able to perform personal hygiene tasks (bathing/showering, dressing, hair care, nail care, oral and hand hygiene), toileting tasks, and nutrition tasks (feeding, meal preparation, and hydration) independently. These notes also reflect that claimant sometimes refuses to take her medication, but most of the time, she is willing to take her medication after reminders from her IBS provider.

17. On September 20, 2024, AD Maycomber participated in an IPP meeting with claimant, claimant's father, Brother, and Yamamoto. AD Maycomber described claimant's demeanor at the September 20, 2024 IPP meeting as "well groomed," "fun," and "loving." Claimant did not present with psychiatric crisis and did not display any verbal aggression or self-injurious behavior. Claimant expressed her goal as to stay home to be with her family. When asked if she could not stay home with her father, who suffers from dementia, where she would like to stay, claimant stated she would want to live with her sister on the East Coast.

18. At the hearing, AD Maycomber acknowledged that after claimant's discharge from College Hospital, claimant experienced difficulties with medication management. At one point, claimant also suffered an allergic reaction to a medication. Therefore, there was confusion, on the part of Maxim as well on the part of claimant's family, about what the correct medication regime should be. AD Maycomber stated FDLRC continues to offer claimant's family support by coordinating care of claimant's physicians and psychiatrist.

19. AD Maycomber clarified that FDLRC does not authorize admission into any psychiatric hospitals. Claimant's treating psychiatrist must make such referral. Although claimant was placed on two psychiatric holds in June 2024, her treating psychiatrist must sign a declaration of dangerousness, pursuant to Welfare and Institutions Code section 6500, before claimant could be admitted into a locked psychiatric unit such as College Hospital's DDMI unit. If claimant is admitted, her health insurance would be used as the first source for payment. Only after claimant's health insurance is exhausted, would FDLRC become the payor of last resort. Even then, FDLRC must petition the district attorney's office, pursuant to Welfare and Institutions Code section 6500, subdivision (c)(3), before it could fund any placement

in a psychiatric hospital. However, in claimant's case, AD Maycomber explained that FDLRC never received a declaration of dangerousness from claimant's treating psychiatrist, and therefore, the process of funding a placement in the DDMI unit was never initiated. Nevertheless, AD Maycomber testified that after claimant's discharge in July 2024, claimant has resided safely at her home, which is the least restrictive environment, and there was no imminent need to place her in College Hospital's DDMI unit as of October 3, 2024.

Brother's Testimony

20. At the hearing, Brother testified about the frustrations claimant's family experienced in June 2024, when he attempted to place claimant in College Hospital's DDMI unit. Brother asserted claimant's psychiatrist approved claimant to be placed in the DDMI unit, but FDLRC refused authorization, resulting in claimant being placed with the general population. Brother also claimed the family filed a petition for Lanterman-Petris-Short (LPS) conservatorship to put claimant in involuntary psychiatric treatment at College Hospital's DDMI unit, but FDLRC staff members still insisted on placing claimant in a residential home, which was inappropriate for claimant. Brother stated claimant's family wishes to avoid the confusion and difficulties they experienced in June 2024, should claimant require another involuntary psychiatric hospitalization. Brother is seeking "clarification" that FDLRC is required to authorize claimant's placement in College Hospital's DDMI unit if she were to require hospitalization again in the future.

21. Brother did not present any evidence of an LPS conservatorship over claimant or any documentation from claimant's psychiatrist showing that claimant's involuntary psychiatric hospitalization was medically necessary as of October 3, 2024.

Brother also did not present any evidence showing claimant's current placement at her home is dangerous or inappropriate.

LEGAL CONCLUSIONS

Standard and Burden of Proof

1. The burden of proof is on the party seeking government benefits or services. (See, e.g., *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 FDLRC was required to fund her placement in College Hospital's DDMI unit as of October 3, 2024. (Evid. Code, § 115.) Claimant has not met her burden.

Applicable Law

2. The Lanterman Developmental Disabilities Services Act (Lanterman Act) (Welf. & Inst. Code, § 4500 et seq.) sets forth a regional center's obligations and responsibilities to provide services to individuals with developmental disabilities. As the California Supreme Court explained in *Association for Retarded Citizens v. Department of Developmental Services* (1985) 38 Cal.3d 384, 388, the purpose of the Lanterman Act is twofold: "to prevent or minimize the institutionalization of developmentally disabled persons and their dislocation from family and community" and "to enable them to approximate the pattern of everyday living of nondisabled persons of the same age and to lead more independent and productive lives in the community." Under the Lanterman Act, regional centers are "charged with providing developmentally disabled persons with 'access to the facilities and services best suited to them throughout their lifetime'" and with determining "the manner in which those services are to be rendered." (*Id.* at p. 389, quoting from Welf. & Inst. Code, § 4620.)

3. To comply with the Lanterman Act, a regional center must provide services and supports that “enable persons with developmental disabilities to approximate the pattern of everyday living available to people without disabilities of the same age.” (Welf. & Inst. Code, § 4501.)

4. Regional centers are also required to provide treatment and services in the least restrictive environment. Specifically, Welfare and Institutions Code section 4502, subdivision (b)(1), states:

(b) It is the intent of the Legislature that persons with developmental disabilities shall have rights including, but not limited to, the following:

(1) A right to treatment and habilitation services and supports in the least restrictive environment. Treatment and habilitation services and supports should foster the developmental potential of the person and be directed toward the achievement of the most independent, productive, and normal lives possible. Such services shall protect the personal liberty of the individual and shall be provided with the least restrictive conditions necessary to achieve the purposes of the treatment, services, or supports.

5. Moreover, as set forth in Welfare and Institutions Code section 4646, subdivision (a):

It is the intent of the Legislature to ensure that the individual program plan and provision of services and

supports by the regional center system is centered on the individual and the family of the individual with developmental disabilities and takes into account the needs and preferences of the individual and the family, where appropriate, as well as promoting community integration, independent, productive, and normal lives, and stable and healthy environments. It is the further intent of the Legislature to ensure that the provision of services to consumers and their families be effective in meeting the goals stated in the individual program plan, reflect the preferences and choices of the consumer, and reflect the cost-effective use of public resources.

6. Welfare and Institutions Code section 4646.4, subdivision (a), provides, in relevant part:

Regional centers shall ensure, at the time of development, scheduled review, or modification of a consumer's individual program plan developed pursuant to Sections 4646 and 4646.5, or of an individualized family service plan pursuant to Section 95020 of the Government Code, the establishment of an internal process. This internal process shall ensure adherence with federal and state law and regulation, and when purchasing services and supports, shall ensure all of the following:

[¶] . . . [¶]

(2) Utilization of generic services and supports when appropriate. . . .

7. Welfare and Institutions Code, section 4648, subdivision (a)(8), provides:

Regional center funds shall not be used to supplant the budget of any agency that has a legal responsibility to serve all members of the general public and is receiving public funds for providing those services.

Disposition

8. After her hospitalization in June 2024, claimant has been residing at home with her parents. FDLRC has appropriately provided CSS and IBS to claimant to ensure her safety and well-being. The IBS reports from Maxim indicate claimant is eating, drinking, and toileting independently. Although claimant is sometimes non-compliant with taking her psychotropic medications, most of the time, she takes her medications with reminders. Claimant also suffered an allergic reaction with one of her medications, and an appropriate medication regime for claimant is still being explored. However, FDLRC has also properly offered to coordinate claimant's care and treatment with her physicians and psychiatrist.

9. By the account of FDLRC staff members who were present at the September 20, 2024 IPP meeting, claimant appeared well groomed and in good spirits in person. Additionally, there was no evidence presented, in the form of a referral or declaration from claimant's psychiatrist, that claimant was in any psychiatric crisis as of October 3, 2024, which required her hospitalization at College Hospital's DDMI unit. Under these circumstances, the least restrictive environment for claimant, pursuant to Welfare and Institutions Code section 4502, subdivision (b)(1), is her current placement

at her home. Even if claimant were to be hospitalized, pursuant to Welfare and Institutions Code sections 4646, 4646.4, and 4648, claimant's health insurance would be the payor of first resort, and regional center funds would be the payor of last resort. Consequently, there is no cause to require FDLRC to fund claimant's hospitalization at College Hospital's DDMI unit as of October 3, 2024.

10. Brother asserted at the hearing that claimant's family seeks "clarification" that FDLRC would be required to fund claimant's future stay at the DDMI unit should circumstances similar to those in June 2024 arise again. What Brother seeks is essentially an advisory opinion. However, as the California Supreme Court explained: "It is settled that the duty of this court, as of every other judicial tribunal, is to decide actual controversies by a judgment which can be carried into effect, and not to give opinions upon moot questions or abstract propositions, or to declare principles or rules of law which cannot affect the matter in issue in the case before it." (*Paul v. Milk Depots, Inc.* (1964) 62 Cal. 2d 129, 132.) Here, because there is no evidence that claimant's hospitalization at College Hospital's DDMI unit is imminent, the ALJ has no authority to provide any advisory opinions or declaratory relief regarding any possible future hospitalizations.

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ORDER

Claimant's appeal is denied. FDLRC was not required to fund claimant's placement at College Hospital's DDMI unit as of October 3, 2024.

DATE:

JI-LAN ZANG

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.