

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

**In the Matter of:**

**CLAIMANT,**

**v.**

**SAN ANDREAS REGIONAL CENTER, Service Agency.**

**DDS No. CS0019748**

**OAH No. 2024080219**

**DECISION**

Administrative Law Judge Michael C. Starkey, State of California, Office of Administrative Hearings, heard this matter on September 13, 2024, in San Jose, California.

Claimant represented himself.

Executive Director's designee James Elliott appeared for service agency San Andreas Regional Center (SARC).

The matter was submitted for decision on September 13, 2024.

## **ISSUE**

Must the regional center reimburse claimant for the cost of tickets to attend six music concerts and comedy shows?

## **FACTUAL FINDINGS**

### **Introduction and Procedural History**

1. Claimant is 31 years old. He lives with his family in San Jose. Claimant was granted eligibility for regional center services before his first birthday, based on a diagnosis of intellectual disability. In 2020, claimant was also diagnosed with autism spectrum disorder (ASD).

2. Claimant has also been diagnosed with several non-eligible conditions, including bipolar disorder, generalized anxiety disorder, dyslexia, attention deficit hyperactivity disorder, post-traumatic stress disorder, and panic disorder.

3. Claimant receives supplemental security income and does not work. Claimant experiences severe anxiety and panic attacks and feels anxious about leaving his home. He needs time to process and prepare for community outings. In his most recent individual program plan (IPP), one goal identified is for claimant to "live independently in a safe and stable home, once suitable housing is identified." In this same document it states that claimant expressed interest in "attending occasional social events with other Regional Center clients," but no goal in this area was identified in the IPP.

4. On July 1, 2024, SARC issued a notice of action (NOA) notifying claimant that it proposed to decline claimant's request for reimbursement of several music concerts and comedy shows attended by claimant. SARC proffered two reasons for the denial: (1) funding for these activities was not part of claimant's IPP, and (2) "[f]unding tickets for headliner concerts and comedy shows is not an effective use of public funds. Funding tickets for these shows do not meet the disability related needs of the individual."

5. Claimant timely appealed and this proceeding followed.

### **Claimant's Evidence**

6. Claimant testified at hearing. His testimony was credible in all respects.

7. At hearing, claimant clarified that he was seeking reimbursement for the cost of his tickets to three music concerts and three comedy shows, totaling approximately \$1,677.

8. SARC clarified that it supports claimant's goal of attending music and comedy events. SARC opposes reimbursement primarily because these events are not a cost-effective way of integrating claimant into the community, but also because they were not part of his IPP.

9. Between January 14, 2023, and May 25, 2024, claimant attended three music concerts and three comedy shows, typically with one or more siblings, as follows.

- On January 14, 2023, claimant attended a comedy show by Anjelah Johnson-Reyes. At hearing he testified that his ticket cost \$40, which is

consistent with an advertisement for this event he submitted showing the tickets cost from \$40 to \$65.

- On August 1, 2023, claimant attended a music concert by Alicia Keys. His sister bought the tickets and claimant paid her \$284.75 in cash for his ticket.
- On October 8, 2023, claimant attended a music concert by RBD (Rebelde). He paid \$370 for his ticket.
- On November 18, 2023, claimant attended a comedy show by Gabriel "Fluffy" Iglesias. Claimant paid \$144.83 for his ticket.
- On February 23, 2024, claimant attended a comedy show by Jeff Dunham. He paid \$79.05 for his ticket.
- On May 25, 2024, claimant attended a music concert by Adele. He paid \$756.83 for his ticket.

10. In total, claimant paid \$1,675.46 for his tickets to these six events. Claimant paid for these tickets with money he saved from his supplemental security income monthly payments. He attended the concerts without any assistance from SARC.

11. Claimant did not discuss these events or reimbursement for them with SARC until after he had attended the last event.

12. Claimant reports that he has had many struggles with his disabilities and mental health conditions and he is trying very hard to make progress. He has difficulty making friends or connections with people his own age. He views these music and comedy events as a potential common ground with his cohorts, although it appears

from his testimony that he socialized primarily with his siblings during these events. Claimant derived great enjoyment from attending these events.

13. Claimant's evidence included many medical records, but he did not claim that any health care professional recommended these concerts as a therapeutic treatment for him. These events are plausibly therapeutic, although to what extent they would constitute treatment for his eligible condition of intellectual disability (and potentially ASD), as opposed to his non-eligible mood disorders and learning disabilities was not established.

14. Sarahmarie Gutierrez, the Adult District Manager for SARC, testified at hearing. Gutierrez oversees SARC case managers, including claimant's, and is familiar with SARC's services to claimant.

15. Gutierrez reports that there are many local opportunities for concerts and comedy events that are cheaper and more cost-effective than the "headliner event[s]" for which claimant seeks reimbursement. She was unable to provide specific examples, but this testimony was unrebutted and credible.

16. Gutierrez also opined that SARC is not allowed to fund activities that are not part of a claimant's IPP.

## **Ultimate Findings**

17. The concerts and comedy events for which claimant seeks reimbursement were plausibly therapeutic, but not cost-effective. Funding for such events was also not part of claimant's IPP.

## LEGAL CONCLUSIONS

1. The State of California accepts responsibility for persons with developmental disabilities under the Lanterman Developmental Disabilities Services Act (Welf. & Inst. Code, § 4500, et seq.) (Act). The purpose of the Act is to rectify the problem of inadequate treatment and services for the developmentally disabled, and to enable developmentally disabled individuals to lead independent and productive lives in the least restrictive setting possible. (§§ 4501, 4502; *Association for Retarded Citizens v. Department of Developmental Services* (1985) 38 Cal.3d 384.) The Act is a remedial statute; as such it must be interpreted broadly. (*California State Restaurant Association v. Whitlow* (1976) 58 Cal.App.3d 340, 347.)

2. The Act mandates that an “array of services and supports should be established . . . to meet the needs and choices of each person with developmental disabilities . . . and to support their integration into the mainstream life of the community.” (§ 4501.) Regional centers have the responsibility of carrying out the state’s responsibilities to the developmentally disabled under the Act. (§ 4620, subd. (a).) The Act directs regional centers to develop and implement an IPP for each individual who is eligible for services, setting forth the services and supports needed by the consumer to meet his or her goals and objectives. (§ 4646.) The determination of which services and supports are necessary is made after analyzing the needs and preferences of the consumer, the range of service options available, the effectiveness of each option in meeting the goals of the IPP, and the cost of each option. (§§ 4646, 4646.5 & 4648.)

3. While regional centers have a duty to provide a wide array of services to implement the goals and objectives of the IPP, they are also directed by the Legislature to provide services in a cost-effective manner. (§ 4646, subd. (a).)

4. The concerts and comedy events for which claimant seeks reimbursement were not cost-effective services, nor were they part of his IPP. (Factual Finding 17.) Therefore, the Act does not authorize the reimbursement claimant seeks.

## **ORDER**

Claimant's appeal is denied. SARC is not authorized to reimburse him for the cost of tickets to the music concerts and comedy shows that he attended between January 14, 2023, and May 25, 2024.

DATE:

MICHAEL C. STARKEY

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 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.

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**ORDER ON APPLICATION FOR RECONSIDERATION**

Administrative Law Judge Michael C. Starkey, State of California, Office of Administrative Hearings, served as the hearing officer in this matter and issued a decision on September 25, 2024. On October 11, 2024, claimant applied for reconsideration of the decision under Welfare and Institutions Code section 4713. The application for reconsideration was timely submitted.

Claimant's letter requesting reconsideration does not state that claimant notified either the San Andreas Regional Center (SARC) or the Department of Developmental Services (DDS) about the request. The Office of Administrative Hearings informed SARC, and SARC filed no opposition. The undersigned hearing officer did not hear the matter or write the decision for which reconsideration is requested.



A party may request reconsideration to correct a mistake of fact or law or a clerical error in the decision, or to address the decision of the original hearing officer not to recuse themselves following a request pursuant to Welfare and Institutions Code section 4712, subdivision (g). (Welf. & Inst. Code, § 4713, subd. (b).)

Claimant states that he requested an informal meeting before mediation and hearing, but that one did not occur. He identifies no reason that such a meeting might have changed the hearing officer's decision. Similarly, claimant explains that he had temporary difficulty accessing hearing exhibits, but acknowledges that the hearing officer assisted him and that he was able to participate effectively in his hearing.

Claimant identifies Factual Finding 11 ("Claimant did not discuss these events or reimbursement for them with SARC until after he had attended the last event.") as a concern, and offers several explanations for his actions. Whether or not claimant offered these explanations under oath at hearing, they do not demonstrate that Factual Finding 11 is incorrect. Claimant's explanations also reinforce Factual Finding 17 ("Funding for such events was also not part of claimant's IPP.")

Claimant disagrees with Factual Findings 12 and 15, stating that he would not have enjoyed or benefited from events other than the ones he chose to attend and that he interacted socially with strangers at all events (such as while waiting in line). Claimant does not demonstrate that Factual Findings 12 or 15 include mistakes, or that the hearing officer erred under the Lanterman Act by failing to make additional findings that claimant now advocates.

In summary, claimant's reconsideration request identifies no mistake of fact or law, and no clerical error, in the decision.

## **ORDER**

Claimant's request for reconsideration is denied.

DATE:

JULIET E. COX

Administrative Law Judge

Office of Administrative Hearings