

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

In the Matter of:

Claimant

and

North Los Angeles County Regional Center,

Service Agency.

DDS No. CS0019894

OAH No. 2024080520

PROPOSED DECISION

Jennifer M. Russell, Senior Administrative Law Judge, Office of Administrative Hearings (OAH), State of California, heard this matter by videoconference on December 2, 2024, and on January 13, 2025.

Cristina Aguirre, Due Process Officer, represented North Los Angeles County Regional Center (NLACRC or service agency). Armida Ochoa, Advocate, represented Claimant, who was present. Claimant is not identified by name to preserve privacy and maintain confidentiality.

Day Specialist Claudia Flores and Consumer Service Coordinator (CSC) Paul Gomez testified on behalf of the service agency. M.M. testified on behalf of Claimant. Spanish language interpretation services were provided on both hearing days. The service agency's Exhibits 1 through 3, 5, 7, 9 through 15, 17 through 19, and 22 and Claimant's Exhibits F through L were received in evidence. The record closed and the matter was submitted for decision at the conclusion of the hearing on January 13, 2025.

ISSUE FOR DETERMINATION

Whether NLACRC should approve M.M. as a paid provider of community living support and community integration services for Claimant under the Self Determination Program (SDP), in accordance with the Lanterman Developmental Disabilities Services Act (Lanterman Act), Welfare and Institution Code section 4500, et seq.

FACTUAL FINDINGS

Jurisdiction

1. Claimant is a 61-year-old male consumer of NLACRC based on his qualifying diagnosis of autism. Claimant resides with M.M. and their three children.
2. By Notice of Action, dated August 12, 2024, NLACRC denied Claimant's request for NLACRC to approve M.M. as a paid provider of Claimant's community living support and community integration services.
3. Claimant appealed and this fair hearing ensued. All jurisdictional requirements are satisfied.

NLACRC's Receipt of Information Regarding M.M. and Claimant's Relationship

4. Claimant initially applied for Lanterman Act services and supports in February 2021. As part of the process for determining Claimant's eligibility for Lanterman Act supports and services, Claimant participated in an intake process followed by certain evaluations or assessments. At all times, Claimant and M.M. represented M.M. as Claimant's wife to NLACRC.

5. M.M., acting on Claimant's behalf, completed an *Intake Application-Spanish*, dated February 27, 2021, in which M.M. identifies her relationship with Claimant as "Esposa," the Spanish word for "Wife."

6. On June 17, 2021, NLACRC Intake Coordinator Beatriz Osegueda, M.B.A. conducted a social assessment of Claimant by telephone. M.M. was present during the assessment. The resulting report titled *Telephonic Social Assessment* documents M.M. identified herself as Claimant's wife to Ms. Osegueda. For example, M.M. provided information regarding, among other things, the impact of Claimant's difficulty sleeping throughout the night of their marriage. The June 17, 2021 Telephonic Social Assessment states, "Wife reported that [Claimant] walks around looking for sweets and he is extremely restless. Wife reported that [Claimant] has problems falling asleep at night. He can go to bed at 2 a.m. and wakes up at 4-6 a.m. . . . Wife reported that they haven't slept together since they got married." (Exh. 3 at p. 5 [A57].)

7. Ms. Osegueda referred Claimant for a psychological evaluation. On July 21, 2021, Larry E. Gains, Ph.D., evaluated Claimant to identify whether Claimant presented with a developmental disability. The *Psychological Evaluation* report he prepared, Dr. Gains documents, "[Claimant] came to the evaluation with his wife, but

was assessed by his self [*sic*]." (Exh. 5 at p. 2 [A68].) Dr. Gains additionally documents, "[Claimant] is married, indicating that he saw his wife in the street and 'liked her', but he could not provide much detail as to what lead [*sic*] him to marriage." (*Id.* at p. 3 [A69].)

8. Thereafter, NLACRC convened an individual program plan meeting attended by Claimant, M.M., CSC Andrea Mojica, and Advocate Mary Flores. The resulting September 27, 2021 IPP documents that Claimant "resides in his home with his wife [M.M.] and their three children" (Exh. 7 at p. 2 [A80].) The IPP contains references to "[Claimant] and his wife Mrs. [M.M.]" and "[Claimant] and his wife." (*Id.* at p. 4 [A.82].)

9. Claimant's September 27, 2021 IPP lists several "Desired Outcomes," including Outcome #2 stating the following: "It is [Claimant's] responsibility to apply for all generic services such as financial, vocational training and/or Community Integration resources that are available to him in his community." The plan for achieving Outcome #2 requires, among other things, Claimant to "apply for all general financial/community/vocational training resources available to him," "contact [his CSC] to inform what resources he was and was not eligible for," and "follow up on application requirements to ensure application requirements are met." The plan additionally provides, "Community services and/or selected vendor will provide eligible services and target outcomes according to IPP planning." With respect to Outcome #2, NLACRC is to "fund . . . eligible services as determined by regulations." (*Id.* at pp. 13-14 [A91-A92].)

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10. In connection with Claimant's initiation into SDP, on December 14, 2021, an individual identified as Sherry Beamer prepared, on behalf of Claimant, a document titled *My Plan/Mi Plan*. In response to the prompt "Support: The people listed below help me. The circled people are paid to help me. Do I need to direct the people who help me more?" the following appears: "Familia, Mi Esposa E Hijos," the English translation of which is "Family, My Wife and Sons." (Exh. 9 at p. 2 [A113].) Ms. Ochoa, acting as Claimant's SDP Independent Facilitator, developed a Person Centered Plan (PCP) for Claimant, dated February 11, 2022. (Exh. 10.) The PCP identifies M.M. as Claimant's spouse. (Id. at p. 1 [A122].) The PCP delineates Claimant's daily routine tasks in which M.M. participates as his wife. For example, between 12:00 noon and 2:00 p.m., Claimant "helps his wife prepare food for the family and they eat together." (*Ibid.* at p. 7 [A128].) The PCP contains M.M.'s signature appearing above her name and the words "Wife of [Claimant]." (*Id.* at p. 50 [A171].)

11. On June 9, 2022, Claimant's IPP was amended. Among other things, the amended IPP documents Claimant "submitted to the NLACRC a letter on December 28, 2021, signed by him, indicating that he authorizes his wife, [M.M.], to serve as his representative, to have access to any information, and to discuss and decide on his behalf, concerning anything associated with the NLACRC." (Exh. 11 at p. 1 [A172].) Subsequent addenda to Claimant's IPP, dated August 15, 2022, February 2, 2023, and June 5, 2023 contain multiple references identifying M.M. as Claimant's wife. (Exhs. 12, 14, and 15.)

12. Notably, the June 5, 2023 IPP addendum provides the following information:

[U]nder SDP [Claimant] has chosen to participate in
community integration with social skills support through

outside provider. . . . Under SDP, [Claimant] has chosen outside provider [F.F.] as social skills support in the community. Per wife [M.M.], [F.F.] will support [Claimant] to participate in social events, family and friends gatherings so that he can learn to generalize and integrate with other people in different natural and social environments so that he has opportunities to increase his socialization, communication and inclusion with other people both at home and in the community.

(Exh. 15 at pp. 4-5 [A224-A225].)

13. Roman Empire Living Skills, Inc. assessed and prepared an *Assessment Individualized Service Plan for Independent Living Skills* for Claimant, dated October 25, 2022. In that document, M.M. is identified as Claimant's wife. (Exh. 13.) A subsequent Progress Report, dated June 1, 2024, identifies "[M.M.]—Wife" as Claimant's emergency contact. (Exh. 18.)

M.M. Testimony Regarding Her Relationship With Claimant

14. In July 2024, Claimant informed NLACRC that he and M.M. were not in any marital relationship and that he only resides at M.M.'s house.

15. At hearing, M.M. testified, "I know [Claimant] for 30 years. At first, I tried to make it loving but because of his diagnosis it was impossible. Thirty years he lived in my house." M.M. maintained she is "not legally married" to Claimant and she "didn't share any documents showing [she is] married to [Claimant]" to NLACRC. M.M. asserted, "I'm a single person."

16. M.M. further testified, "[Claimant] is the father of my kids. [Claimant] lives in my house because he doesn't have any place to live. I always said he is the father of my kids. I don't consider myself a natural support to [Claimant] because he is not my father, brother. We're not related so it's not natural to support him. . . . [Claimant] is not able to be a natural support to kids and me. . . . I supported him all this time because he is the father of my children. I did this from the heart."

17. M.M. explained the constant care and supervision Claimant requires. M.M. testified she is not available to provide this care reasserting, "I'm not a natural support" but then disclosing she is "available if paid to provide the services; otherwise, I'm not available."

18. Acumen Fiscal Agent, LLC (Acumen) is a fiscal management company assisting vendors and providers of services to NLACRC's SDP participants to complete documents required in connection with payments and related payroll taxes, among other things. To support the claim she does not have a marital relationship with Claimant, M.M. offered an Acumen *Employee Information Form Relationship Disclosure* form she signed on October 10, 2023. Information appearing on that form indicates M.M. has "no relation to employer," meaning Claimant. (Exh. F.) At hearing, M.M. testified she had been "working with [Claimant] since last December, one year" and she received payment for her services up until the first day of hearing in this matter.

19. M.M. admitted she did not provide Acumen with an approved spending plan authorizing her to provide paid services to Claimant. M.M. incorrectly claimed, "Under the law I didn't need any approval."

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20. To further support the claim she does not have a marital relationship with Claimant, M.M. offered page number six of Form I-130, Edition 04/01/24, a document titled *Petition for Alien Relative*, which is used to establish a family relationship between a United States citizen or lawful permanent resident of the United States and a relative seeking to obtain a green card. On this page, M.M.'s "Current Marital Status" is designated with an X in the box next to "Single, Never Married." (Exh. H.) Nothing indicates whether a Form I-130 including this page six was ever certified under penalty of perjury or submitted to or considered by an appropriate U.S. agency.

LEGAL CONCLUSIONS

Burden and Standard of Proof

1. Claimant bears the burden of establishing by a preponderance of evidence that NLACRC should approve M.M. as a paid provider of his community living support and community integration services. (See *Lindsay v. San Diego Retirement Bd.* (1964) 231 Cal.App.2d 156, 161 [disability benefit]; *Greatoroex v. Board of Administration* (1979) 91 Cal. App.3d 54, 57 [retirement benefits]).

Applicable Law

2. Under the Lanterman Act), developmentally disabled persons have a statutory right to treatment and habilitation services and supports. (Welf. & Inst. Code, §§ 4502, 4620, & 4646-4648; *Association for Retarded Citizens v. Department of Developmental Services* (1985) 38 Cal.3d 384, 389.) The Lanterman Act mandates 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 of life in the community.” (Welf. & Inst. Code, § 4501.)

3. Services and supports for persons with developmental disabilities are defined as “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 independent, productive, normal lives. The determination of which services and supports are necessary for each consumer shall be made through the individual program plan process. The determination shall be made on the basis of the needs and preferences of the consumer or, when appropriate, the consumer’s family, and shall include consideration of a range of service options proposed by individual program plan participants, the effectiveness of each option in meeting the goals stated in the individual program plan, and the cost-effectiveness of each option. Services and supports listed in the individual program plan may include, but are not limited to, . . . community integration services, community support[.]” (Welf. & Inst. Code, § 4512, subd. (b).)

4. Regional centers play a critical role in the coordination and delivery of services and supports to persons with disabilities. (See Welf. & Inst. Code, § 4620 et seq.) This is because regional centers, among other things, develop and implement IPPs for individuals with developmental disabilities considering the needs and preferences of the individual and the family to promote community integration, independent, productive, and normal lives as well as stable and healthy environments. Regional centers are additionally responsible for ensuring the provision of services and supports to individuals with disabilities and their families that are effective to meet

stated IPP goals, reflect the consumer's preferences and choices, and reflect the cost-effective use of public resources. (See Welf. & Inst. Code, §§ 4646, 4646.5, 4647, & 4648.)

5. IPPs are developed through a process of individualized needs determination: "Decisions concerning the consumer's goals, objectives, and services and supports that will be included in the consumer's [IPP] and purchased by the regional center or obtained from generic agencies shall be made by agreement between the regional center representative and the consumer or, if appropriate, the parents, legal guardian, conservator, or authorized representative at the program plan meeting." (Welf. & Inst. Code, § 4646, subd. (d).)

6. The planning process for the consumer's IPP shall include, among other things, the following: "A schedule of the type and amount of services and supports to be purchased by the regional center or obtained from generic agencies or other resources in order to achieve the [IPP] goals and objectives, and the identification of the provider or providers of service responsible for attaining each objective, including but not limited to, vendors, contracted providers, generic service agencies, and natural supports." (Welf. & Inst. Code, § 4646.5, subd.(a)(5).)

7. In implementing IPPs, regional centers are required to "first consider services and supports in natural community, home, work, and recreational settings." (Welf. & Inst. Code, § 4648, subd. (a)(2).) Furthermore, to achieve the stated objectives of a consumer's IPP, regional centers are authorized to expand the availability of needed services of good quality by, among other things, "[u]sing creative and innovative service delivery models, including, but not limited to, natural supports." (Welf. & Inst. Code, § 4648, subd. (e)(3).)

8. Consistent with the high priority of state and federal law to integrate individuals with developmental disabilities into the mainstream life of their natural communities, regional centers are responsible for expanding opportunities for the full and equal participation of persons with developmental disabilities in their local communities through activities that may include, but not limited to, among other things, "[d]evelopment and facilitating the use of natural supports to enhance community participation." (Welf. & Inst. Code, § 4688, subd. (b)(5).)

9. "'Natural supports' means personal associations and relationships typically developed in the community that enhance the quality and security of life for people, including, but not limited to, family relationships, friendships reflecting the diversity of the neighborhood and the community, associations with fellow students or employees in regular classrooms and workplaces, and associations developed through participation in clubs, organizations, and other civic activities." (Welf. & Inst. Code, § 4512, subd. (e).)

10. Participation in SDP is voluntary. (Welf. & Inst. Code, § 4685.8, subd. (d).) SDP is intended "to provide participants and their families with an individual budget, increased flexibility and choice, and greater control over decisions, resources, and needed and desired services and supports to implement their IPP." (Welf. & Inst. Code, § 4685.8, subd. (a).) Participants may "only purchase services and supports necessary to implement their IPP," (Welf. & Inst. Code, § 4685.8, subd. (d)(3)(C)), and "only when generic services and supports are not available." (Welf. & Inst. Code, § 4685.8, subd. (d)(3)(B).) When securing needed services and supports for SDP participants, the least costly available provider restrictions specified in subparagraph (D) of paragraph (6) of subdivision (a) of Section 4648 apply. (Welf. & Inst. Code, § 4685.8, subd. (b)(2)(H)(ii).)

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Discussion

11. The credible evidence establishes from the very beginning of the February 2021 intake process to determine Claimant's eligibility for Lanterman Act services and supports, Claimant and M.M. repeatedly and consistently represented themselves to NLACRC as a married couple and living together as such with their three children in their family home. Under the Lanterman Act, M.M. as Claimant's wife is considered a "natural support" and thus ineligible for payment of community living support or community integration services she provided to Claimant in her spousal capacity.

12. It was not until several years later, for the first time in July 2024, that Claimant and M.M. represented to NLACRC that they are not married to each other, or to any other person, despite their shared residence with their three children. Even if this current representation were credible, under the Lanterman Act this relationship between Claimant and M.M. falls within the category of "personal associations and relationships typically developed in the community" and thus within the meaning of "natural supports." Claimant's stated IPP goals or objectives regarding his integration into his community are attainable through this variety of natural support.

13. The Lanterman Act requires regional centers, including NLACRC, to develop, facilitate use of, and exhaust "natural supports" to meet the IPP goals of enhancing the community participation of individuals with disabilities. The evidentiary record in this matter suggests an exhaustion of Claimant's "natural supports" given M.M.'s testimony announcing her unavailability to care for Claimant. If indeed that is the state of affairs confronting Claimant, the Lanterman Act mandates a vendorization process to identify and evaluate candidates with qualifications rendering them suitable to assume the responsibilities of a paid provider of community living support and

community integration services for Claimant. No vendorization process has yet to determine that M.M. is such a candidate.

14. Based on the foregoing, at this time, Claimant has not met his burden of establishing by a preponderance of the evidence that NLACRC should approve M.M. as a paid provider of his community living support and community integration services.

ORDER

Claimant's appeal is denied.

DATE:

JENNIFER M. RUSSELL

Senior Administrative Law Judge

Office of Administrative Hearings

BEFORE THE
DEPARTMENT OF DEVELOPMENTAL SERVICES
STATE OF CALIFORNIA

In the Matter of:

Claimant

OAH Case No. 2024080520

Vs.

DECISION BY THE DIRECTOR

North Los Angeles County Regional Center,

Respondent.

ORDER OF DECISION

On January 23, 2025, an Administrative Law Judge (ALJ) at the Office of Administrative Hearings (OAH) issued a Proposed Decision in this matter.

The Department of Developmental Services (DDS) takes the following action on the attached Proposed Decision of the ALJ:

The Proposed Decision is adopted by DDS as its Decision in this matter. The Order of Decision, together with the Proposed Decision, constitute the Decision in this matter.

This is the final administrative Decision. Each party is bound by this Decision. Either party may request a reconsideration pursuant to 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.

Attached is a fact sheet with information about what to do and expect after you receive this decision, and where to get help.

IT IS SO ORDERED on this day February 14, 2025.

Original signed by:

Pete Cervinka, Director