

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

In the Matter of:

CLAIMANT

and

INLAND REGIONAL CENTER, Service Agency

DDS No. CS0020825

OAH No. 2024090894

DECISION

Mary Agnes Matyszewski, Administrative Law Judge, Office of Administrative Hearings (OAH), State of California, heard this consolidated matter¹ on January 22, 2025, in San Bernardino, California.

Claimant's mother represented claimant who was not present.

¹ This matter was consolidated for hearing with DDS No. CS0020823, OAH No. 2024090889, claimant's sister's appeal of the same issue, but separate decisions for each appeal were issued.

Stephanie Zermeño, Appeals and Resolution Specialist, Fair Hearings and Legal Affairs, represented Inland Regional Center (IRC).

Oral and documentary evidence was received. The record remained open to allow claimant's mother to submit documents because she was unable to upload them prior to hearing and to give IRC an opportunity to respond. Claimant then uploaded documents to an incorrect Case Center matter, and the record was reopened twice to give claimant additional time to upload documents correctly. Claimant never uploaded any documents nor responded to OAH's orders. IRC did provide a response, but because claimant's exhibits were never properly uploaded, IRC's response was not received in evidence. Thereafter, on February 14, 2025, the record was closed, and the matter was submitted for decision.

ISSUE

Shall IRC be required to fund retroactive reimbursement for an increase in claimant's social recreation services for expenses incurred from April 1, 2024, to July 1, 2024, (three months)?

SUMMARY

Typically, claimant's request would be denied because IRC did not approve the expenses before they were incurred. Regionals centers may only pay retroactive service requests in limited circumstances, which do not apply here. However, an IRC director approved the retroactive payments for the months of May and June 2024, which were \$390 per month. As such, those expenses shall be paid upon proof of payment after claimant uploads the receipts in the social recreation payment portal.

Claimant shall have until June 30, 2025, to upload the proper receipts. After that time, those expenses shall not be reimbursed.

FACTUAL FINDINGS

Jurisdictional Matters

1. Claimant, a 10-year-old male, resides in his home with his parents and two siblings, including his sister, who is also an IRC client. According to his Individual Program Plan (IPP), he is eligible for regional center services based on his diagnoses of mild intellectual disability, autism spectrum disorder, and epilepsy.

2. On July 25, 2024, IRC advised claimant in a Notice of Action (NOA) that his request that IRC fund "retroactive reimbursement for an increase in claimant's social recreation reimbursement funds dating back to April 1, 2024," was denied. IRC set forth the reasons for its denial in the NOA. At hearing, the parties agreed that reimbursement from April 1, 2024, to July 1, 2024, was the issue to be decided.

3. Claimant's mother appealed that denial, asserting a "verbal agreement" regarding the funds, and that she had "extensive emails and approvals from a director to resolve payments and increase." She also set forth issues she had with submitting receipts because the activities are paid in advance, and she had "tech issues."

4. Upon receipt of the appeal, this matter was set for hearing.

Evidence Introduced at Hearing

5. IRC Consumer Services Coordinator (CSC) Lorena Gonzalez, IRC Program Manager (PM) Elizabeth Flores, and claimant's mother testified, and numerous documents were introduced. The factual findings are based on that evidence.

BACKGROUND INFORMATION

6. IRC's Position Statement set forth the rationale for its decision.

7. Regional centers develop and implement an Individual Program Plan (IPP) for each consumer which specifies the consumer's needs for services and supports. These services and supports must appear in statements of goals and also specific time-limited objectives in the IPP. All information regarding service requests must be provided so regional centers can determine whether there are generic resources available, the duration the service will be provided, and the cost of the service. Funding decisions must be included in the IPP and agreed upon in advance by IRC and claimant. IRC is prohibited from authorizing services retroactively except under certain emergency circumstances.

8. Previously suspended social recreation services were reinstated by Welfare and Institutions Code section 4688.22.

9. When social recreation services were reinstated, IRC initially established a \$100 monthly maximum for those services. Thereafter, that monthly limit was increased as needed for consumers.

10. IRC consumers wishing to submit receipts for reimbursement of social recreation programs must do so through the Financial Management Service (FMS)

portal, Elevate. IRC sent “mass emails” to families providing them with information about how to submit receipts for reimbursement with Elevate.

11. Receipts are approved based off the month paid. The services can take place over several months, but the receipts must be submitted for reimbursement during the month in which they are paid, which is why the dates need to match.

12. IRC denied claimant’s April, May, and June 2024 requests for reimbursement beyond the previously authorized \$100 monthly limit because an increase in social recreation services was not approved until the July 2024 IPP.

13. CSC Gonzalez refuted claimant’s assertion that claimant was given verbal confirmation by the former CSC that social recreation could be increased as of April 2024, testifying that an increase was first requested at the July 2024 IPP meeting. In fact, during that meeting, CSC Gonzalez asked claimant’s mother if she had provided information to the former CSC regarding the social recreation increases requested, and claimant’s mother advised that she had not. Moreover, PM Flores testified that CSC’s do not have the authority to grant requests for increases, there is an internal IRC approval process that must occur before such requests may be authorized. Of note, no corroborating evidence supported claimant’s mother’s assertion that the former CSC verbally granted her request.

EVIDENCE REGARDING CREATION OF CLAIMANT’S IPP

14. There was an in-person IPP meeting in May 2024 between claimant, claimant’s mother, and CSC Gonzalez. An in-person follow-up IPP meeting was held in July 2024 with those same three individuals plus PM Flores, a Disability Rights California (DRC) Attorney, and a DRC representative who attended virtually. A November 14, 2024, follow-up telephone meeting was held between CSC Gonzalez

and claimant's mother "to go over additional IPP edits and information." Several IPP discussions, including ones regarding "completion and approval of [the] IPP," took place as documented in IRC's "Consumer I.D. Notes."

15. As of the time of this hearing, claimant's IPP has still not been finalized. Claimant's mother testified additional corrections to it are still needed.

16. The May 2024 draft IPP documented that the "List of Existing Agreed Upon Services and Supports" were 30 hours per month of routine respite, which was ongoing, and \$100 per month of "[social recreation]" which was authorized from July 1, 2023, through June 30, 2024, with Elevate FMS as the "provider." "[Social recreation] corrections & refunds, future [social recreation] activities" and "[social recreation] coach" were among the "New Service Requests or Changes to Existing Services" discussed. The May 2024 draft IPP "Home Situation" section documented:

Note, there have been some current discrepancies regarding the Social Reimbursement program and the receipts submitted. Team discussed review and corrections to social [recreation] submissions through FMS portal. Due to DDS audits, all receipts must be submitted for reimbursement on the month they were paid for. Family has been asked to correct submissions so reimbursement can take place.

In the section of the May 2024 draft IPP marked "Community and Social Involvement," the following was documented:

The team discussed the social recreation reimbursement program. Currently, Mom explained that due to

reimbursement issues with FMS Portal, she has paused submitting receipts. Mom would like to continue participating in the program. CSC will review further and discuss with mom corrections that need to be made in order to obtain the proper reimbursement for previous months. Parent is aware that they can make the request when an activity is selected and needs to provide 30-day notice for review and processing and receipt dates must match the month that the activity was paid for. Parent has been provided with an assigned acknowledgment of a list of allowable and non-allowable activities.

At the conclusion of the May 2024 draft IPP, the only "Authorized Services" noted were in-home respite services.

17. The July 2024 draft IPP was similar to the May 2024 draft IPP with a few changes. The July 2024 draft IPP documented the agreed-upon services and supports were 30 hours per month of respite and \$390 per month of social recreation beginning July 1, 2024, with Elevate FMS as the "provider." The changes to existing services included the following notation: "social [recreation coach . . . requested," "FMS [social recreation] reimbursement - correction & increase discussed," and \$390 increase requested." The "Community and Social Involvement" section now also contained the following entry:

As of 7/22/2024 - Increase was discussed and approved for social reimbursement as [claimant] participates in multiple sports. Effective 7/1/2024 to 6/30/2025, IRC will fund a social recreation program designed to offer socialization

and recreational opportunities to help increase [claimant's] social skills. IRC will fund a monthly reimbursement of \$390 to support the consumer's participation in community sports/activities. The reimbursement will be paid through the FMS vendor, Elevate, [address provided]. Parent is aware that receipts must be submitted to Elevate for approval and reimbursement. CSC will report on reimbursement utilization on an annual basis, as needed. Parent has been informed that any changes in activity will require a 30-day notice so that the request can be discussed for approval and/or processing. Parent is aware of which activities have been identified as allowable services.

18. The November 2024 draft IPP "Home Situation" section contained the following additional entry:

Per [claimant's mother], she is requesting 'all tech issues to be addressed and access for authorization to be able to submit request reimbursement along with verification of bank information current and up to date.'

The "Desired Outcomes" section of the November 2024 draft IPP contained the following additional entry: "New service: [Social Recreation] Reimbursement & [Social Recreation] Coach."

IRC's CONSUMER I.D. NOTES

19. IRC's "Consumer I.D. Notes" documented numerous discussions with claimant's mother and information provided to her. Several entries pertained to social

recreation. A July 3, 2023, entry documented authorization for social recreation services not to exceed \$100 per month effective July 1, 2023. An August 1, 2023, entry documented the email sent to claimant's mother providing her with the portal link to create an FMS social recreation account, and she "was also informed of the process of moving forward when turning in her invoice." Another entry on August 1, 2023, documented an email exchange regarding the social recreation portal with claimant's mother being told "to register with her information then [IRC] will receive a return information to complete the process." An August 7, 2023, entry documented that IRC emailed claimant's mother to give her instructions to process the reimbursements in the social recreation portal. An August 25, 2023, email from claimant's mother advised IRC that she had received a message from FMS that she would not be reimbursed for May and June. There were no other entries regarding social recreation in 2023.

20. A January 8, 2024, entry documented a new start date for social recreation noting: "Due to miscommunication for the social [recreation] start date, new [authorization] submitted to cover May and June 2023. Addendum created as well." Another January 8, 2024, entry documented an email IRC sent claimant's mother to schedule an "appointment for discussion of social [recreation] receipt submissions and more." A February 6, 2024, social recreation update entry documented IRC "spoke with mom today and she explained that the portal is not allowing her to submit any file, it tells her that the file is too large. Mom explained that she tried making it smaller, cropping it and whatever she could to make it smaller but nothing worked." An April 2, 2024, entry documented that claimant's mother requested new IPP's for her children and a new CSC. She was advised to make that request to the program manager. On April 23, 2024, claimant's mother was notified of the new CSC assignment, and that an IPP meeting would be scheduled in May 2024. A May 6, 2024, entry documented a "collateral with PM regarding reimbursement issue for [social recreation.]" The May 7,

2024, entry documented the face-to-face IPP meeting held, and included the following entry:

CSC also discussed with mother social [recreation] portal and what is needed to update portal submission receipts for proper reimbursement. Mother confirmed that prior CSC also assisted her with the correction of the portal submissions but she believes that the issue is on IRC's end. Mother also advised that she had contacted FMS and was blocked from further contact.

Mother requested to hold off on signing 35c until she has approved IPP draft. CSC went over list of approved and non-approved social [recreation] activities. CSC informed mother that review of the FMS portal will be done to correct the issues.

21. Several entries from June through November 2024 documented continued attempts to complete the IPP process. In the November 14, 2024, entry, CSC Gonzalez posted the email she sent claimant's mother documenting their discussion, in which IRC confirmed that as of July 2024, there was an increase in social reimbursement for \$390. CSC Gonzalez and claimant's mother discussed "submitting a receipt for the month of November to see if the portal will accept it, and we will be in communication regarding your experience. If you receive any errors for the month of November, please send me screenshots and details so I can escalate them." CSC Gonzalez and claimant's mother "also discussed asking [PM Flores] to deny the outstanding social [recreation] reimbursements for previous month prior to July 2024

so we can try to resubmit. I will discuss with her and asked to have this escalated as well if needed and will report back to you.”

EMAILS REGARDING SOCIAL RECREATION REIMBURSEMENT ISSUES

22. Emails between IRC and claimant’s mother documented numerous discussions regarding claimant’s social recreation reimbursement issues.

23. On May 4, 2023, claimant’s former CSC emailed claimant’s mother information in response to her inquiry regarding social recreation. The former CSC advised that there were two components to the program: social coaching and reimbursement. The CSC attached the referral form for the reimbursement portion, which was introduced at hearing, and gave claimant’s mother reimbursement details, including advising her that monthly activity costs may not exceed \$100 and are paid through the FMS vendor, Elevate. The CSC provided further information regarding how to fill out the referral form, as well, and advised claimant’s mother to contact IRC with any questions.

24. On September 28, 2023, PM Flores emailed claimant’s mother advising that she was “approving social recreation receipts that need to be processed, but had some confusion about the ones submitted for [claimant]. Receipts for May and September were submitted, but both receipts uploaded were for the same date and order number and were paid in June for Fall 2023. PM Flores assumed “this should be the September receipt” and suggested that perhaps the “incorrect receipt was uploaded for May 2023?”

25. In response thereto, claimant’s mother emailed that she had left a voicemail for PM Flores to call her back and “tried multiple ways to upload several receipts for the month of May . . . for multiple sports that month up to the \$100 mark.”

She also had "separate expenses for the gear & equipment & items purchased for them" for the following months, July through September. She thanked PM Flores for reimbursing claimant's sibling's June activity and noted claimant's May through September activities, equipment and uniform fees.

26. PM Flores responded that she was in meetings and cannot take a call but by "taking a quick look at" claimant's receipts, she had approved some of the reimbursements, and noted that if claimant had "multiple receipts for the same month, they need to be one file together." She directed the former CSC to "please contact mom to assist."

27. Claimant's mother replied by email, attaching receipts for claimant's activities and noting "there is some confusion on the months because of the limiting options of the FMS log. Please let me know if you have any questions or need further information. The leagues are paid in advance so most [of] the transaction are paid in full now for future months. There are a total of \$1000+ charges for their activities now through November." Claimant's mother then itemized the cost of the May through September activities for claimant and claimant's sibling.

28. On October 20, 2023 claimant's mother emailed the former CSC asking, "Do these help?" and attaching receipts. She wrote she was still looking for one receipt but "there are plenty of others that would also add up to contribute to [\$]100 for the month." The former CSC forwarded the email to PM Flores on October 25, 2023.

29. Later that same date, PM Flores emailed claimant's mother that she had been in discussions with the former CSC "about the receipt submissions" for claimant and claimant's sibling. She noted that claimant's mother had submitted receipts to the former CSC directly, "but *IRC does not have access to upload receipts* for families."

(Emphasis in original.) PM Flores noted that the submission history IRC had only showed four submissions for claimant and none for claimant's sister. PM Flores "had to reject the soccer submissions since they were duplicates, and the May submission did not match the dates of activity. The June and July receipts were also duplicates, and I mistakenly approved them." PM Flores wrote further:

Each month needs 1 submission/file with all receipts pertaining to that child in that month. These need to be clear about what the receipt is for (activity is the goal, rather than goods/products). We can approve some products if it [*sic*] is in line with the activity (for example, soccer cleats for soccer activity). Again, we need to be able to open the receipt and know exactly who it is for and what the funding was for.

The portal does not allow for multiple submissions in a month, so please keep your receipts organized for easy submissions. If any future receipts are rejected, you should get an email from Elevate and have access to the comments to see why. (Emphasis in original.)

30. Nine minutes later, claimant's mother emailed PM Flores that, "We are completely missing the mark here. Please call me asap. This has been extremely frustrating. I left you a voicemail for the 3rd time and have not heard back. Please also connect me to your supervisor[.] I would like to come into the office and speak with you both in person on Friday."

31. On October 26, 2023, PM Flores emailed claimant's mother apologizing for missing her call, and advising she did not have time this week for meeting but could schedule a phone call with the former CSC "sometime next week or possibly late today." PM Flores wrote that she understood claimant's mother's frustration, "but the portal itself is not something IRC manages and/or developed. We cannot control how the process works. I did hear [sic] in your message that you physically sent packets to the FMS, and I know that you emailed them to [the former CSC]. We cannot do anything with them; they need to be uploaded by the parent. I've sent the receipts submitted and the original packet mailed in - the date for submission and receipts have not been matching." PM Flores wrote further, "The portal (apparently) does not allow for multiple files to be uploaded. This then means you need to gather receipts by child and month, combine the files, and upload one file. We cannot do this for you since the file from you essentially confirms your proof of payment."

32. Less than one hour later, claimant's mother emailed PM Flores asking her to, "Please check your voicemail and connect me with your supervisor for a meeting."

33. On December 27, 2023, claimant's mother advised PM Flores she was getting rejections based on dates of FMS submissions, which were "going to be off because we have been active since May! Please connect me with your supervisor. I have attempted in many ways to get any kind of response to this mess and you refused to help." Claimant's mother wrote that the former CSC "has tried to convey the information and we haven't gotten anywhere."

34. Sixteen minutes later, PM Flores replied to claimant's mother's email, advising there were "several issues with the submissions," and advising that she had asked the former CSC "to make a home visit in [January] to sort receipts with you since there seems to be some issues with getting this uploaded correctly." PM Flores noted

that she "sent several emails in October explaining what was needed." PM Flores listed "some things to keep in mind" when seeking reimbursement, which included the dates services were authorized, that receipts "can only be submitted for the specific months you are seeking reimbursement," and that the social recreation stipend was "meant to encourage social engagement and building friendships in the community," it's "focus is not to fund merchandise unless we can confirm it is tied to an activity." PM Flores noted that claimant's mother submitted receipts for shoes, clothes, and water but did not provide any "context as to what those are for." PM Flores wrote that claimant's mother was free to contact the director and gave his name, but reminded claimant's mother: "these requirements are not my protocols. They are required by the vendor and are viewed often due to auditing. The dates and submissions have to match."

35. In response thereto, six minutes later, claimant's mother's emailed PM Flores, with a copy to the former CSC, stating:

This is incorrect, the approval was in May and emailed to me in April to begin for both of my children in May. I was provided very specific guidelines that also included mailing in the entire packet with specifics detailed to fund an activity and provide any expense which supported the activity. Uniform or equipment-the water [sic] was excluded.

This is ridiculous [sic] having to jump through hoops to access or get approval for something offered to us. You have impacted us in a way that cannot be resolved even with the reimbursement. The submissions obviously will not match because we are trying to catch up and no one on either end will resolve these errors or setbacks.

36. PM Flores's December 27, 2023, email to claimant's mother advised that the director had been copied on the email so he was aware of the situation. Claimant's mother responded that she appreciated it and "would hope you would explain in detail instead of assuming this email entails the situation at this point." She also addressed the director hoping "to hear from you when you have the opportunity" and provided her contact information.

37. A January 4, 2024, email from Felipe Garcia, IRC Director, Pre-School and Children's Services, with copies to the former CSC and PM Flores, advised claimant's mother that he had a chance to review her situation with the program manager and "the solution we have is to retro authorize the request so that May is included." Claimant's former CSC would be scheduling with claimant's mother to "go over the receipt submission process. The vendor has strict guidelines on how these receipts are submitted and we would like you to be reimbursed as quickly as possible." The director thanked claimant's mother for emailing him about the situation, and he "will hand this over to [the former CSC] as he will know how to create the new authorization so we can include May forward." Mr. Garcia then instructed the former CSC to schedule an in-home visit with claimant's mother as soon as possible.

38. Claimant's mother thanked Mr. Garcia in her reply email.

CSC GONZALEZ'S SPREADSHEET

39. CSC Gonzalez had discussions with claimant's mother regarding issues she was having with her social recreation receipts being kicked back to her. CSC Gonzalez advised that she would look into it and discuss the issue with PM Flores. IRC reviewed the portal history of the receipts submitted and discovered that some were duplicative, and others had a date of service that did not match the payment date.

40. CSC Gonzalez created a spreadsheet of the information she discovered, which was introduced at hearing. These entries on the spreadsheet were the only ones that had been submitted to the portal. The spreadsheet had several columns including claimant's name, the activity, the service month of the activity, the amount (cost) of the activity, the date the receipt was uploaded, the status of the upload, the status date, the amount paid, the reason the receipt was or was not paid, and what was submitted. According to the spreadsheet, the receipt for claimant's social recreation activities in June 2023 was uploaded in August 2023 and rejected because it was a "duplicate receipt with August." "What was submitted" for the June 2023 activities was documented as "5/26/2023 - Receipt from City of Marietta for payment of \$80 - Karate Classes From Aug 1- Sep 12 (already paid)." Receipts for claimant's August 2023 activities were uploaded on August 25 2023, and approved on August 28, 2023. That receipt was paid on September 25, 2023, because "paid (all receipts paid)." "What was submitted" for the August activities was listed as "5/26/2023 - Receipt from City of Marietta repayment of \$80 - Karate Classes From Aug 1- Sep 12." Receipts for claimant's September 2023 activities were uploaded on September 26, 2023, and rejected because "duplicate receipt." "What was submitted" for the September activities was "6/10/2023 - Receipt for \$28 for Top Soccer Fall 2023 (already paid)." Receipts for claimant's October 2023 activities were uploaded on October 30, 2023, and approved on October 31, 2023. The reason was "paid (all receipts paid)" and "What was submitted" was "6/10/23 - Receipt for \$28 for Top Soccer Fall 2023." Three other columns in the October 2023 activities row, which were not titled, contained the following entries: "6/10/23 - Receipt for \$23 for Fall Baseball Registration," "Receipt dated 9/9/23 - for \$24.97 for MVYB Winter Basketball," and "10/4/23 - Duplicated receipt (paid by IRC already) for \$18.47 from Dick's Sporting Goods." The receipts and

other documents supporting the information contained in the spreadsheet were attached thereto.

41. Claimant's mother explained that the Elevate system would not allow her to go back in and make changes once receipts were uploaded.

Elevate Portal Communications and Testimony

42. On January 16, 2025, PM Flores emailed Elevate portal tech-support advising that claimant's mother was "having portal issue [*sic*] and cannot resolve it." PM Flores advised that IRC "had ongoing delays with this parent being able to access the portal in order to receive reimbursement." PM Flores wrote:

Mom reports that there is a red error stating that her banking information is incorrect, and she needs to resubmit it, but would not provide a screenshot of the error. She reports that she has not changed her account information, and, on my side, I see the referral is approved and submitted. Because of this, mom reports that she is unable to upload or submit any receipts.

Can you please take a look at the profiles to see if there are any issues on your end, or if someone can reach out to mother to assist. We currently are undergoing appeal proceedings due to delays in approvals and processing.

43. Eight minutes later, Elevate portal tech support emailed the following response: "When I opened referrals for these 2 consumers, I don't see any popup messages informing that there is an error with the bank information. Advise parent to

submit their reimbursements.” PM Flores forwarded that email to CSC Gonzalez and Ms. Zermeño.

44. CSC Gonzalez testified that tech support was asked to look into claimant’s mother’s issues and found “nothing wrong on our end.” PM Flores described the numerous ways IRC tried to help claimant’s mother use the system and resolve her issues. Elevate even offers a tutorial for parents. To date, claimant has still not correctly uploaded her April, May, or June 2024 receipts for reimbursement.

45. PM Flores explained that IRC does not have the same access as consumers to the Elevate portal, so the screen which IRC sees is different from the consumers’ screen such that PM Flores could not see what claimant’s mother claimed was happening on her screen, which is why she asked her to send screenshots, which she did not do. Based on what PM Flores could view, there were no errors in the system. Given claimant’s mother’s assertion that she was unable to login, PM Flores reached out to Elevate tech support to see why claimant’s mother could not access the system. As noted above, there were no errors found in the system.

46. Claimant’s mother described the limited access IRC has to the Elevate portal, which made it difficult for her to explain the issues she was having when submitting receipts. There are limited choices to select in the portal, so she encountered difficulties when claimant had activities that lasted for several months but were paid in different months. She agreed her former CSC was “very helpful” with providing information and attempting to help her with those issues. She also described the social recreation activities as “wonderful” for claimant.

47. At one point, claimant’s mother mailed her receipts to IRC. Months passed without being reimbursed, and she continued to pay for activities “operating in

good faith” she would be reimbursed. She has incurred interest on her credit card because of paying for those social recreation activities and not being reimbursed.

48. Claimant’s mother even tried contacting Elevate directly to resolve the issues. Instead, she got a “very quick email response” advising her to contact IRC and IRC would educate her on the reimbursement process. It was at this point that she believes she had exhausted all of her communications to resolve the issue, so decided to request another CSC who would “more align” with her communication style, and provide “new eyes” to review the problem, so no more time would be wasted trying to resolve this issue. Claimant’s mother has found CSC Gonzalez’s communication style to be “crystal clear,” which she has let CSC Gonzalez know.

49. Claimant’s mother feels a “disconnect” with Elevate and asked why there has not been more IRC staff training on this issue, to which PM Flores replied that none was needed since there were no other widespread complaints about portal issues like the ones claimant’s mother repeatedly encountered.

LEGAL CONCLUSIONS

Purpose of the Lanterman Act

1. The purpose of the Lanterman Developmental Disabilities Act (Lanterman Act) is to provide a “pattern of facilities and services . . . sufficiently complete to meet the needs of each person with developmental disabilities, regardless of age or degree of handicap, and at each stage of life.” (Welf. & Inst. Code § 4501; *Association of Retarded Citizens v. Department of Developmental Services* (1985) 38 Cal.3d 384, 388.)

Burden and Standard of Proof

2. Each party asserting a claim or defense has the burden of proof for establishing the facts essential to that specific claim or defense. (Evid. Code, §§ 110, 115, 500; *McCoy v. Bd. of Retirement* (1986) 183 Cal.App.3d 1044, 1051, footnote 5.) In this case, claimant bears the burden to prove the regional center should fund the service claimant seeks.

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

4. A preponderance of the evidence means that the evidence on one side outweighs or is more than the evidence on the other side, not necessarily in number of witnesses or quantity, but in its persuasive effect on those to whom it is addressed. It is “evidence that has more convincing force than that opposed to it.” (*People ex rel. Brown v. Tri-Union Seafoods, LLC* (2009) 171 Cal.App.4th 1549, 1567.)

The Lanterman Act, DDS, and Regional Centers

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

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

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

“Services and supports for persons with developmental disabilities” means specialized services and supports or

special adaptations of generic services and supports directed toward the alleviation of a developmental disability or toward the social, personal, physical, or economic habilitation or rehabilitation of an individual with a developmental disability, or toward the achievement and maintenance of an independent, productive, and normal life.

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

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

10. Welfare and Institutions Code section 4434 requires DDS to monitor regional centers to ensure they comply with all applicable laws and regulations, and identifies one of DDS's duties to be reviewing regional centers' Purchase of Service Policy (POS). A POS identifies what services a regional center will fund and is approved by a regional center's board of directors and DDS. The POS sets forth the policies and procedures regional centers must follow when funding services, and identifies specific exceptions to purchase of service authorizations.

11. Welfare and Institutions Code sections 4644 authorizes regional centers to provide preventive services to parents of developmentally disabled individuals, but requires generic services be utilized first.

12. Welfare and Institution Code section 4646.4 requires regional centers to establish an internal process to ensure adherence with federal and state laws and regulations. When purchasing services and supports, regional centers must conform to the POS, utilize generic resources and other sources of funding, consider the family's responsibility, and consider information regarding the individual's need for service, barrier to access, and other information.

13. Welfare and Institutions Code section 4646 sets forth the IPP process and the requirements attendant thereto. As indicated, authorized services and supports can only be implemented as agreed upon by the consumer. Regional centers cannot fund unauthorized services and supports or ones with which the consumer disagrees.

14. Welfare and Institutions Code section 4647 sets forth the service coordination process.

15. Welfare and Institutions Code section 4648 describes the activities regional centers shall conduct to achieve the IPP objectives, and requires regional centers be fiscally responsible and purchase services or supports through vendorization or contracting.

16. California Code of Regulations, title 17, section 50612, subdivision (a), requires that a purchase of service authorization be obtained from the regional center for all services purchased out of center funds. Subdivision (b) requires the authorization be in advance of the provision of service except in certain limited circumstances. Retroactive authorization for services is allowed for emergency services

rendered by a vendored service provider when the following three criteria are met: regional center personnel could not be reached when the services were rendered, regional center was notified within five working days of the provision of service, and the regional center determines the service was necessary and appropriate.

Evaluation

17. IRC is prohibited from authorizing services retroactively except under certain emergency circumstances, which were not present here. Claimant did not establish by a preponderance of evidence that an increase in services was requested before July 2024. However, based upon the email correspondence and Director Garcia's authorization, IRC agreed to retroactively fund an increase beginning May 2024. Accordingly, based upon that authorization, claimant shall be reimbursed for social recreation services in the amount of \$390 for May 2024 and \$390 for June 2024.

However, to be reimbursed, receipts must be properly uploaded, and claimant's mother has repeatedly failed to do so despite IRC providing her with assistance and extensive information about the process. IRC has done all that it can do to try and teach claimant's mother how to use the portal, to no avail. No other consumers are having these continuous portal upload issues. At this point, it is up to claimant's mother to learn the system or risk not having her receipts be reimbursed. Of note, even in this hearing, claimant's mother demonstrated difficulty following OAH's upload instructions regarding exhibits and accessing the documents IRC emailed her for the hearing. Claimant's mother must learn how to use the FMS Elevate system as that is how receipts are reimbursed.

While claimant will not be required in this limited instance to comply with the requirement that receipts be submitted for reimbursement during the month in which

they are paid, because claimant's appeal to be reimbursed at an increased rate for May and June 2024 is being granted given the director's authorization, going forward, claimant must comply with the FMS Elevate portal requirements to be reimbursed for social recreation activities.

ORDER

Claimant's appeal is granted in part. IRC shall retroactively reimburse claimant in an amount not to exceed \$390 for May 2024, and an amount not to exceed \$390 for June 2024 for claimant's social recreation services upon proof of those costs incurred. Claimant shall provide that proof by submitting receipts in the FMS Elevate portal for the May and June 2024 activities. Claimant shall have until June 30, 2025, to upload the proper receipts. After that time, if those receipts have not been properly uploaded into the FMS Elevate portal, those expenses shall not be reimbursed.

Claimant will not be reimbursed an increased rate for April 2024 as the director did not authorize those retroactive payments, and no exceptions to fund them apply.

Going forward, claimant shall utilize the FMS Elevate portal in accordance with applicable requirements in order to be reimbursed for social recreation activities. Failure to properly submit any request for reimbursement may result in denial of the request.

DATE: February 19, 2025

Mary Agnes Matyszewski
Administrative Law Judge
Office of Administrative Hearings

NOTICE

This is the final administrative decision. Each party is bound by this decision. Either party may request 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.

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

In the Matter of:

CLAIMANT

and

INLAND REGIONAL CENTER, Service Agency.

DDS No. CS0020825

OAH No. 2024090894

ORDER ON APPLICATIONS FOR RECONSIDERATION

An Administrative Law Judge (ALJ) from the Office of Administrative Hearings (OAH) issued a decision in this matter on February 19, 2025, which was electronically served on the parties.

On February 26, 2025, Inland Regional Center (IRC) applied to OAH for reconsideration of the decision under Welfare and Institutions Code section 4713. The application for reconsideration was timely submitted. OAH provided claimant notice of the application and provided claimant until March 6, 2025, to file any response. No response was received by OAH by the deadline.

On March 6, 2025, claimant applied to OAH for reconsideration of the decision. The application for reconsideration was untimely as it was not submitted within 15 days of the hearing decision. (Welf. & Inst. Code, § 4713, subd. (b).)

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. Here, IRC seeks reconsideration on the following grounds: the ALJ made a mistake of fact regarding the dates of services at issue. Specifically, IRC states the grounds on which the application is made as follows:

The evidence and testimony submitted by IRC document that the retroactive authorization referenced in the decision was for May and June 2023, not May and June 2024. Further, this was a retroactive adjustment to the service start date, not an agreement to retroactively fund an increase in services.

Claimant requests reconsideration on the following grounds: claimant was not given the opportunity to submit crucial documentary evidence when the record was held open because OAH deleted the 26 exhibits claimant's representative uploaded to Case Center.

ANALYSIS

When social recreation services were reinstated, IRC initially established a \$100 monthly maximum for those services. Thereafter, that monthly limit was increased as

needed for consumers. IRC consumers wishing to submit receipts for reimbursement of social recreation programs must do so through the Financial Management Service (FMS) portal, Elevate.

Claimant was originally approved to receive \$100 monthly social recreation services. At the July 2024, Individual Program Plan (IPP) meeting, claimant requested an increase in funding for social recreation services.

IRC denied claimant's requests for retroactive funding for April 2024, May 2024, and June 2024 social recreation services beyond the authorized \$100 monthly limit because an increase in social recreation services was not approved until the July 2024 IPP meeting.

IRC's July 25, 2024, Notice of Action (NOA) advised claimant that her request that IRC fund "retroactive reimbursement for an increase in claimant's social recreation reimbursement funds dating back to April 1, 2024," was denied. IRC set forth the reasons for its denial in the NOA. At hearing, the parties agreed that reimbursement from April 1, 2024, to July 1, 2024, was the issue to be decided.

Claimant's mother appealed that denial, asserting a "verbal agreement" regarding the funds, and that she had "extensive emails and approvals from a director to resolve payments and increase." She also set forth issues she had with submitting receipts through the portal because the activities were paid in advance, and she had "tech issues."

IRC's Position Statement asserted it only approved a temporary monthly increase for the month of August 2024. IRC asserted it "did not approve the request to fund the request for retroactive reimbursement for an increase in social recreation

reimbursement for the month of April 2024.” Of note, the Position Statement did not reference May or June 2024.

At hearing, IRC asserted it denied claimant’s April, May, and June 2024 requests for reimbursement beyond the previously authorized \$100 monthly limit because an increase in social recreation services was not approved until the July 2024 IPP. As of the time of the hearing, claimant’s IPP was still not finalized.

Emails between IRC and claimant’s mother documented numerous discussions regarding claimant’s social recreation reimbursement issues, including claimant’s mother’s repeated issues trying to upload documents to the portal. She eventually contacted Felipe Garcia, IRC Director, Pre-School and Children’s Services.

On January 4, 2024, Director Garcia emailed claimant’s mother advising her that he had a chance to review her situation and “the solution we have is to retro authorize the request so that May is included.” He also advised her an IRC Consumer Services Coordinator would be scheduling with her to “go over the receipt submission process. The vendor has strict guidelines on how these receipts are submitted and we would like you to be reimbursed as quickly as possible.”

A January 8, 2024, entry in IRC’s Consumer I.D. Case Notes documented a new start date for social recreation noting: “Due to miscommunication for the social [recreation] start date, new [authorization] submitted to cover May and June 2023. Addendum created as well.”

IRC created a spreadsheet of what social recreation services had been paid and those that were rejected. IRC’s investigation of claimant’s technical issues revealed there were no errors on IRC’s or the portal’s end. Claimant’s mother did not respond

to IRC's requests she send screen shots of the messages she was getting on her computer when using the portal.

Per Director Garcia's email, IRC agreed to retroactively fund social recreation services for May 2023 and June 2023. At the time, the authorization for those services was \$100 per month, and those services shall be paid upon claimant's proof by submitting receipts in the FMS Elevate portal for the May and June 2023 activities. Claimant shall have until June 30, 2025, to upload the proper receipts. After that time, if those receipts have not been properly uploaded into the FMS Elevate portal, those expenses shall not be reimbursed.

Claimant did not establish that she is entitled to a retroactive increase in services dating back to April 2024.

For these reasons, the application for reconsideration must be granted and the decision will be modified as set forth in the Order.

Claimant's application for reconsideration was untimely. However, even if it were timely submitted, claimant failed to establish a mistake of fact or law in the final decision. At the hearing on January 22, 2025, the ALJ held the record open until January 31, 2025, to allow claimant to upload documents to Case Center, OAH's electronic evidence platform. On February 3, 2025, the ALJ issued an order reopening the record until February 7, 2025, because claimant had uploaded documents to another consolidated matter before OAH, bearing different case numbers and issues. On February 10, 2025, the ALJ issued another order reopening the record until February 14, 2025, to give claimant further opportunity to upload any documents to Case Center for this matter. As noted in the decision, claimant did not upload any documents or otherwise respond to the ALJ's orders. Accordingly, claimant was

provided ample opportunity to upload any further documents for the ALJ to consider. Moreover, claimant failed to establish in his request for reconsideration how these documents were specifically relevant to any claimed error in fact or law in the decision. For these reasons, claimant's application for reconsideration must be denied.

ORDERS

The application for reconsideration of the final decision by IRC is GRANTED. The decision is modified as follows: IRC shall retroactively reimburse claimant \$100 per month for social recreation services incurred in May 2023 and June 2023 upon proof of those costs incurred. Claimant shall provide that proof by submitting receipts in the FMS Elevate portal for the May and June 2023 activities. Claimant shall have until June 30, 2025, to upload the proper receipts. After that time, if those receipts have not been properly uploaded into the FMS Elevate portal, those expenses shall not be reimbursed.

Claimant's request for retroactive increases in social recreation services for April 2024, May 2024, and June 2024 are denied. A copy of this Order with the decision it modifies together are the final decision after reconsideration. The final decision after reconsideration shall be served on each party and a copy shall be provided to DDS.

Claimant's application for reconsideration is DENIED.

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DATE: March 11, 2025

ADAM L. BERG

Presiding Administrative Law Judge

Office of Administrative Hearings