

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

In the Matter of the Fair Hearing Request of:

CLAIMANT,

and

WESTSIDE REGIONAL CENTER, Service Agency.

DDS No. CS0021038

OAH No. 2024100362

DECISION

Eric Sawyer, Administrative Law Judge (ALJ), Office of Administrative Hearings, State of California, heard this matter by videoconference on November 14, 2024.

Claimant, a minor, was represented by his mother. The names of claimant and his family members are omitted to protect their privacy and maintain the confidentiality of this proceeding.

Michael Nelson, Program Manager, represented Westside Regional Center (service agency).

The record closed and the matter was submitted for decision at the conclusion of the hearing.

ISSUE

Shall service agency continue to provide weekly hotel vouchers for use by claimant and his mother to secure housing?

EVIDENCE RELIED ON

In making this Decision, the ALJ relied on service agency's exhibits 1 through 4 (official notice was taken of the statutes recited in exhibits 5-7), as well as the testimony of Mr. Nelson and claimant's mother.

FACTUAL FINDINGS

Jurisdictional Matters

1. Service agency determines eligibility and provides funding for services and supports to persons with developmental disabilities under the Lanterman Developmental Disabilities Services Act (Lanterman Act), among other entitlement programs. (Welf. & Inst. Code, § 4500 et seq.; subsequent undesignated statutory references are to this code.)

2. Claimant is a 13-year-old boy who is a consumer of service agency under the eligible category of autism. (Ex. 2.)

3. As described in more detail below, claimant and his mother moved out of the family home on an emergency basis and requested service agency assistance in securing housing in late August 2024. Service agency agreed to provide hotel vouchers on a weekly basis for five weeks while claimant's mother was navigating her housing

crisis. On September 20, 2024, service agency denied the request of claimant's mother to further extend the hotel vouchers. (Ex. 2.)

4. On September 26, 2024, service agency issued claimant's mother a notice of action (NOA) advising her that hotel vouchers would no longer be provided. (Ex. 2.)

5. On September 30, 2024, claimant's mother filed an appeal with the Department of Developmental Services (DDS), challenging service agency's decision to stop issuing the hotel vouchers, and requesting that funding be reinstated. (Ex. 2.)

Claimant's Housing Needs

6. Claimant previously resided in the family home with his mother and father. (Testimony [Test.] of mother.)

7. In Fall 2023, service agency funded a therapist from Line of Hope to assist claimant with his processing challenges. The therapist worked with claimant in the family home. (Test. of mother.)

8. Claimant's mother testified the therapist witnessed claimant's father treat claimant inappropriately, and advised claimant's mother to leave the family home with claimant. Claimant's mother also testified that the therapist reported claimant's father to Child Protective Services (CPS). The dates of these events were not established.

9. Claimant's mother further testified that by July 2024, claimant's father became increasingly violent, aggressive, and hostile. Claimant's mother decided to leave the family home with claimant. She also reported claimant's father to CPS. (Test. of mother.)

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10. In August 2024, claimant's mother advised service agency of her report to CPS that claimant's father had engaged in inappropriate behavior toward claimant, and that she and claimant had left the family home. She further advised that the Los Angeles County Department of Children and Family Services (DCFS) was investigating the CPS report. (Test. of Nelson.)

11. At that time in August 2024, claimant's mother also requested service agency assistance with housing for her and her son. Claimant's service coordinator referred claimant's mother to service agency's Community Navigator Services program within its Family Resource and Empowerment Center (FREC). Claimant's mother was given referrals to various shelters and possible housing resources. Funding also was approved for Line of Hope to provide crisis support to claimant. (Test. of Nelson.)

12. Effective August 20, 2024, service agency decided to provide claimant's mother with vouchers for seven days at a hotel in the area. This decision was made because DCFS was still investigating the complaint against claimant's father, and service agency wanted to assist claimant in this time of crisis. However, the hotel voucher funding was not meant to be indefinite. It was viewed as a one-time special arrangement to help claimant and his mother cope with this family emergency. (Test. of Nelson.)

13. The first week of the hotel vouchers covered the dates of August 20 through 26, 2024. Claimant's mother requested additional vouchers because she had not been able to find secure housing. Service agency agreed to extend the hotel voucher funding four successive weeks, covering the period of August 27 through September 24, 2024. Each week the hotel vouchers were extended, claimant's mother was cautioned that the funding was provided on an exceptional basis and would be terminated in the near future. (Test. of Nelson.)

14. In late September 2024, claimant's mother again requested an extension of the hotel voucher funding, but service agency declined. Service agency funded a total of five weeks of hotel vouchers. (Test. of Nelson; Ex. 4.)

15. On October 4, 2024, service agency was advised that DCFS had closed its investigation after finding the complaint against claimant's father was inconclusive. (Test. of Nelson; Ex. 3.) Claimant's mother testified the inconclusive finding was due to her husband denying the merits of the complaint when interviewed by DCFS, and the lack of bruising or other visible injuries on claimant.

16. Claimant and his mother have not returned to the family home. Claimant's mother does not believe it is a safe environment for her and her son. One reason is that Claimant's mother filed a domestic temporary restraining order against her husband; the status of that case is unclear. Also, claimant's mother is embroiled in litigation with her husband and the landlord of the family home, who she contends have unlawfully evicted her. (Test. of mother.)

17. In the interim, claimant and his mother have been staying with family, friends, or utilizing limited resources provided by other government agencies. Claimant's mother now is paying for accommodations out-of-pocket. (Test. of mother.)

18. The various housing and shelter referrals provided by service agency did not result in claimant's mother finding stable housing. Many of the phone numbers given to claimant's mother have been disconnected. Other referrals are located too far from claimant's current network of services. Finding a shelter willing to take in a woman with an autistic child also has been difficult. In fact, claimant's mother has been cautioned it will be harder for her to find a shelter because her son has autism. (Test. of mother.)

19. Claimant and his mother still need shelter because they have been unable to find a suitable place to live indefinitely. (Test. of mother.)

Parties' Contentions

SERVICE AGENCY

20. Service agency does not have a policy supporting the funding of housing for consumers and their families, and it does not believe the Lanterman Act supports such funding outside of a short-term emergency situation. In this case, the hotel vouchers were initially provided to assist claimant and his mother navigate their housing crisis, and to allow the CPS complaint process to resolve. Service agency determined that five weeks was sufficient for these purposes and that hotel vouchers could not be funded indefinitely. (Test. of Nelson.)

21. Service agency contends that, other than providing limited hotel vouchers, the Lanterman Act only requires providing referrals to other government agencies and generic resources for funding, which it has done. Many of those other agencies, such as DCFS and the California Department of Social Services, have expertise and budgets better suited to find shelters for domestic violence victims. (Test. of Nelson.)

CLAIMANT

22. Claimant's mother argues the initial provision of hotel vouchers was vital and should not have been terminated until stable housing was obtained. Claimant needs housing near his current network of service providers. His autism is making it harder to find a shelter or temporary housing. Finally, the Lanterman Act supports maintaining a consumer at home with his family. In this case, this means claimant's

current housing crisis should not be alleviated by placing him in a group home and separating him from his mother. Claimant's mother argues these facts demonstrate the strong relationship between the request for continuing hotel voucher funding and claimant's developmental disability.

23. In a sense, claimant's mother blames service agency for the predicament she finds herself in, as it was the therapist from Line of Hope placed in the family home by service agency who triggered the crisis by complaining about claimant's father to CPS. Claimant's mother argues that because service agency had a hand in the start of her predicament, it should continue providing assistance in getting her extracted from it.

24. Under the Lanterman Act, service agency is the payor of last resort for claimant. Claimant's mother argues this means it should continue providing the hotel vouchers until she can find stable housing, especially where none of the referrals or other supports offered by service agency have been helpful.

LEGAL CONCLUSIONS

Jurisdiction and Burden of Proof

1. An administrative hearing to determine the rights and obligations of the parties is available under the Lanterman Act to appeal a contrary regional center decision. (§§ 4700-4717.) Claimant's mother timely appealed service agency's NOA advising that it would no longer provide hotel voucher funding. Therefore, jurisdiction exists for this appeal. (Factual Findings 1-5.)

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2. The standard of proof in this case is the preponderance of the evidence because no law or statute, including the Lanterman Act, requires otherwise. (Evid. Code, § 115.) This standard is met when the party bearing the burden of proof presents 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.)

3. When one seeks government benefits or services, the burden of proof is on him. (See, e.g., *Lindsay v. San Diego Retirement Bd.* (1964) 231 Cal.App.2d 156, 161 [disability benefits].) In this case, service agency provided hotel vouchers on a week-by-week basis, but decided to no longer provide that funding after five weeks. Claimant is requesting the funding not only be reinstated, but provided indefinitely until claimant's housing needs are met. Since service agency has not before agreed to provide hotel vouchers indefinitely, claimant bears the burden of proving by a preponderance of the evidence that he is entitled to hotel voucher funding indefinitely.

Governing Law

4. Section 4512, subdivision (b), defines services and supports that can be funded under the Lanterman Act 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 an independent, productive, and normal life. . . ."

5. Section 4512, subdivision (b), lists numerous examples of fundable services and supports, which, pertinent to housing, "may include, but are not limited to, . . . special living arrangements, . . . information and referral services, . . . assistance

in locating a home, . . . emergency and crisis intervention, . . . supported living arrangements, . . . [and] vouchers. . . .”

6. Although the phrase “including, but not limited to” indicates enlargement of the list of items specifically noted, the use of this phrase does not mean the Legislature intended a category without limits. (*People v. Giordano* (2007) 42 Cal.4th 644, 660.) Statutes are to be given a reasonable and commonsense interpretation consistent with the apparent legislative purpose and intent “and which, when applied, will result in wise policy rather than mischief or absurdity.” (*Dyna-Med, Inc. v. Fair Employment & Housing Com.* (1987) 43 Cal.3d 1379, 1392.)

7. Thus, it is significant that while section 4512 specifically lists housing-related services, such as assistance in locating a home, special living arrangements, or supported living services, it does not include funding for housing. This indicates the Legislature did not contemplate indefinite funding for housing as an available service. This determination is consistent with the general definition of fundable services and supports contained in section 4512, subdivision (b), in that funding for housing is not directed toward the alleviation of a developmental disability, and does not achieve and maintain a consumer’s independence, productivity, and normal lifestyle.

8. Because the list of fundable services specified in section 4512 includes information and referral services, assistance in locating a home, emergency and crisis intervention, and vouchers, enlarging the list of services specified in section 4512 to include a limited period of hotel vouchers to meet the emergent crisis of claimant’s housing needs is a reasonable extrapolation of the reach of this statute.

9. However, the common definitions of “emergency” and “crisis” better comport with periods of days or perhaps a few weeks, but not indefinitely.

10. In fact, the only mention of funding for housing contained in the Lanterman Act is at section 4689, subdivision (h)(1), which allows a regional center to make rent, mortgage, or lease payments under very limited circumstances related to an adult consumer's supported living service arrangement. In this case, claimant is a minor and therefore not yet eligible for a supported living arrangement.

11. Section 4659.10 provides that it is "the intent of the Legislature that [DDS] and the regional centers shall continue to be the payers of last resort consistent with the requirements of the [Lanterman Act]. . . ." Thus, the concept of "payer of last resort" only relates to services that can be funded under the Lanterman Act.

Disposition

12. In this case, it is clear the Lanterman Act does not support indefinite funding to help claimant and his mother secure stable housing. At most, the Lanterman Act supports service agency's reaction to claimant's housing crisis, i.e., housing referrals, service supports, and temporary hotel vouchers to provide housing while claimant's mother navigated through the initial phase of her family emergency. The Lanterman Act does not specify periods of time for fundable services. Because service agency's prior hotel voucher funding was justified under the "emergency and crisis intervention" part of the list contained in section 4512, subdivision (b), the five weeks funded by service agency was appropriate. (Factual Findings 6-21.)

13. Claimant's mother's contentions have been considered but are not persuasive. (Factual Findings 22-24.)

14. For example, the fact service agency's initial reaction to the family crisis was helpful does not mean hotel vouchers must continue to be provided. As discussed above, the Lanterman Act supports initial measures to support a family in times of

crisis or emergency, but not indefinitely thereafter. Housing has just as much connection to claimant's developmental disability as do food, clothing, and medicine, yet the Lanterman Act does not support that other type of funding either. The Lanterman Act is not a general welfare statutory scheme, but rather one specifically aimed at the alleviation of developmental disabilities.

15. The record does not establish which complaint to CPS prompted the family crisis, i.e., the complaint by claimant's mother or the Line of Hope therapist. In any event, it cannot be concluded service agency is responsible for the unintended consequences of funding the placement of that therapist in the family home. Providing funding for a therapist to work with claimant on his processing challenges is supported by the Lanterman Act, and the service agency would have been remiss if it neglected to do so. Service agency could not have foreseen the discord in the family home. The Line of Hope therapist is a mandatory reporter, meaning she was under a legal duty to report her suspicions of child abuse to CPS. The fact that claimant's mother also made a CPS report is corroborative. Ultimately, it was claimant's mother's decision to remove claimant from the family home, not service agency's. Finally, there is nothing in the Lanterman Act supporting such a request for compensatory funding.

16. It is true that service agency is the payer of last resort under the Lanterman Act. But that doctrine applies only to services and supports fundable under the Lanterman Act. As discussed in detail above, indefinite funding for housing is not supported by the Lanterman Act.

17. Based on the above, claimant failed to meet his burden of establishing by a preponderance of the evidence that he is entitled to continued funding of weekly hotel vouchers. (Factual Findings 1-24; Legal Conclusions 1-16.)

ORDER

Service agency shall not be required to continue providing weekly hotel vouchers or similar funding for claimant and his mother to secure housing.

DATE:

ERIC SAWYER

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.