

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

In the Matter of:

CLAIMANT,

and

ALTA CALIFORNIA REGIONAL CENTER,

Service Agency.

DDS No. CS0023082

OAH No. 2024120882

DECISION

Timothy J. Aspinwall, Administrative Law Judge (ALJ), Office of Administrative Hearings, State of California, acting as a hearing officer, conducted a fair hearing on February 5, 2025, at Alta California Regional Center (ACRC) in Sacramento, California.

Claimant was represented by his father. The names of Claimant and his parents are omitted to protect their privacy and confidentiality.

The Service Agency, ACRC, was represented by Robin M. Black, Legal Services Manager.

Evidence was received, the record was closed, and the parties submitted the matter for decision on February 5, 2025.

ISSUE

Is ACRC required to provide for modifications or replacement of a sliding glass door to allow Claimant independent access to and from the backyard of his home?

FACTUAL FINDINGS

Jurisdiction and Background

1. ACRC provides funding for services and supports to persons with developmental disabilities under the Lanterman Developmental Disabilities Services Act (Lanterman Act), and other related laws. (Welf. & Inst. Code, § 4500 et seq.) (All statutory references are to the Welfare and Institutions Code, unless otherwise specified.)

2. Claimant is 13 years of age. He lives with his parents in their family home in Elk Grove, California. He is eligible for ACRC services under the Lanterman Act based on diagnoses of moderate intellectual disability and cerebral palsy with moderate motor dysfunction.

3. Claimant's father requested that ACRC provide French doors to replace the sliding glass door in their home to allow Claimant independent access to and from the backyard. ACRC denied that request. Claimant timely filed a fair hearing request, by which he appealed ACRC's denial. This hearing followed.

ACRC's Evidence

TESTIMONY OF ELAINE DAMO AND HER WRITTEN ASSESSMENT

4. Ms. Damo is a licensed occupational therapist. She provides services including residential accessibility assessments for persons in wheelchairs. At ACRC's request, Ms. Damo conducted an accessibility assessment of Claimant's home on October 1, 2024. She went to Claimant's home to evaluate possible modifications such as a lift system to help transport Claimant from the ground floor to the second floor of his home.

5. While Ms. Damo was at Claimant's home, Claimant's father asked her to look at a sliding glass door that opens onto a concrete patio in the backyard. He told Ms. Damo he wanted to have the sliding glass door replaced with French doors to make it possible for Claimant to go through the doorway to the backyard. Ms. Damo prepared a written accessibility assessment that included consideration of French doors and other alternatives.

6. Ms. Damo testified that Claimant would have difficulty opening and closing French doors after he passed through the doorway. She also expressed her view that French doors would be more of a personal aesthetic choice than a necessity for Claimant to access the backyard.

7. Ms. Damo instead recommended metal ramps inside and outside the sliding glass door and a "crossbridge" to lie over the sliding door tracks. The ramps and crossbridge would allow a family member to push Claimant through the sliding doorway in his wheelchair into the backyard so he could spend time outdoors. The crossbridge would be on hinges so it could be folded up off the sliding door tracks to allow a family member to close the sliding door.

8. To Ms. Damo's observation, Claimant would not be able use the ramp and crossbridge system without assistance. Specifically, Claimant would not be able to bend forward in his wheelchair to push the crossbridge down across the sliding door tracks. He would need someone to do that for him. He might also need help to slide the door open.

9. Ms. Damo did not assess independent accessibility – that is what would be necessary to allow Claimant to independently access the backyard without assistance. For Ms. Damo to assess Claimant's independent accessibility she would need to observe what things he can and cannot do, and develop a system based on his abilities.

TESTIMONY OF KENYA RODRIGUEZ-MONTALVO AND RELATED DOCUMENTS

10. Ms. Rodriguez-Montalvo has been employed by ACRC for approximately one and a half years as a children's service coordinator. She serves as Claimant's service coordinator. In February 2024, Ms. Rodriguez-Montalvo, Claimant, and Claimant's parents participated in an annual Individual Program Plan (IPP) planning team meeting. The goals for Claimant as stated in the IPP summary include that Claimant will continue to live with his family; maintain good physical, mental and dental health; and have access to appropriate medical equipment to ameliorate the physical impact of his developmental disabilities or facilitate the maintenance of an independent, productive normal life. The IPP states in the assessment section that Claimant likes being outside, playing, and watching birds.

11. Ms. Rodriguez-Montalvo was at Claimant's home on October 1, 2024, when Ms. Damo conducted the on-site portion of her assessment. To her observation, Claimant cannot open and close the sliding glass door on his own.

12. After Ms. Rodriguez-Montalvo received Ms. Damo's written assessment, she conferred with her manager. It was determined that ACRC would reject Claimant's request for French doors because they were more "cosmetic" than necessary to meet any of Claimant's accessibility needs.

13. To Ms. Rodriguez-Montalvo's understanding, Claimant has the right to learn to be independent and explore his home. At the present time he is not able to independently access the backyard through the sliding glass door.

TESTIMONY OF KATIE ROBERT AND RELATED DOCUMENTS

14. Ms. Robert is employed by ACRC as a client services manager. Her responsibilities include direct supervision of service coordinators including Ms. Rodriguez-Montalvo. She is familiar with Claimant's request for ACRC to fund French doors to replace the sliding glass door in Claimant's home. ACRC denied Claimant's request in a Notice of Action dated December 13, 2024. The stated reasons include that the "French doors would be a cosmetic change, and not necessary to meet [Claimant's] needs associated with his disability or to increase his independence in the home, and therefore would not represent a cost-effective use of public funds."

Claimant's Evidence

TESTIMONY OF CLAIMANT'S FATHER

15. Claimant's father testified that the ramp and crossbridge proposed by Ms. Damo would be problematic. The primary problem is that Claimant would not be able to independently open the sliding glass door and lower the crossbridge to access the backyard. He would need to wait for someone to do this for him before he could access the backyard. In addition, it may be difficult for Claimant's mother to manually

lower and lift the crossbridge because of the strain it would cause for her hand and back.

16. Claimant's parents are not specifically requesting French doors. They would like to have any type of door that will allow Claimant to independently open, pass through the doorway on his wheelchair, and close the door. This could be a door that slides open with a push button. Claimant's father has no preconceived idea about what type of door would meet Claimant's needs. Claimant's father did tell Ms. Damo when she was at his home on October 1, 2024, that he wanted the sliding glass door replaced with French doors.

TESTIMONY OF CLAIMANT'S MOTHER

17. Claimant's mother wants something more useful to Claimant and herself than the ramp and crossbridge system that Ms. Damo proposed. Claimant needs a door he can open and a ramp he can use to go out the door to the backyard. She wants Claimant to be independent as much as possible. He has the right to go in and out of the backyard on his own. Claimant enjoys being outside, and she wants him to have that option. Claimant's mental stimulation is limited if he stays indoors too much.

18. Claimant's mother injured her right hand approximately three months prior to this hearing, and is undergoing physical therapy to treat the injury. She has also strained her back multiple times transferring Claimant to and from his wheelchair. She does not want to hurt herself anymore. The ramp and crossbridge system that Ms. Damo proposed does not make sense for Claimant's mother because it would require her to bend over and manually lift the crossbridge.

LEGAL CONCLUSIONS

The Burden and Standard of Proof

1. In an administrative hearing, the burden of proof is on the party seeking government benefits or services. (See, e.g., *Lindsay v. San Diego County Retirement Bd.* (1964) 231 Cal.App.2d 156, 161.) In this case, Claimant bears the burden of proving, by a preponderance of the evidence, that ACRC is required to provide for modifications or replacement of a sliding glass door to allow Claimant independent access to and from the backyard of his home. (Evid. Code, § 115.)

Applicable Law

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

3. As set forth in section 4646, subdivision (a):

It is the intent of the Legislature that the individual program plan and provision of services and supports by the regional center system is centered on the individual and the family of the individual with developmental disabilities and takes into account the needs and preferences of the individual and the family, if appropriate. . . . It is the further intent of the Legislature to ensure that the provision of services to consumers and their families be effective in meeting the goals stated in the individual program plan, reflect the preferences and choices of the consumer, and reflect the cost-effective use of public resources.

4. As set forth in section 4646.5, subdivision (a)(1), the planning process for the individual program plan discussed in section 4646, shall include the following:

Gathering information and conducting assessments to determine the life goals, capabilities and strengths, preferences, barriers, and concerns or problems of the person with developmental disabilities. . . . Assessments shall be conducted by qualified individuals and performed in natural environments whenever possible. Information shall be taken from the consumer [and] the consumer's parents The assessment process shall reflect awareness of, and sensitivity to, the lifestyle and cultural background of the consumer and the family.

5. Section 4647, subdivision (a), provides that coordination of services shall include "assurance that the planning team considers all appropriate options for

meeting each individual program plan objective . . . and monitoring implementation of the plan to ascertain that objectives have been fulfilled and to assist in revising the plan as necessary.”

Analysis and Disposition

6. Ms. Damo candidly testified she did not assess what would be necessary to allow Claimant to independently access the backyard without assistance. To make such an assessment, she would need to observe what Claimant can and cannot do, and develop a system based on his abilities. This has not been done.

7. The evidence is also clear that the ramp and cross-bridge system recommended by Ms. Damo would not provide Claimant with independent access to the backyard. It would provide Claimant access only with the assistance of another person able to utilize the crossbridge. Based on the evidence, Claimant’s mother would likely not be able to utilize the crossbridge without risk of harm to her hand and/or back.

8. Claimant’s parents want a door and ramp system that will allow Claimant to independently access the backyard. This is consistent with the IPP objectives to facilitate the maintenance of an independent, productive normal life. Pursuant to section 4646, subdivision (a), the opinions and preferences expressed by Claimant’s parents must be taken seriously. The mandate to make cost-effective use of public resources must also be taken seriously.

9. Based on the Factual Findings and Legal Conclusions as a whole, a follow-up assessment is necessary to evaluate possible options to modify or replace the sliding glass door to allow Claimant to independently access the backyard of his

home. This is consistent with the mandate under section 4647, subdivision (a), that all appropriate options for meeting the IPP objectives be considered.

ORDER

Claimant's appeal is PARTIALLY GRANTED. ACRC shall fund a follow-up onsite assessment to evaluate possible options to modify or replace the sliding glass door to allow Claimant to independently access the backyard of his home. Thereafter, ACRC shall immediately convene a planning team meeting to consider the assessment and the cost-effectiveness of the possible modifications.

DATE: February 14, 2025

TIMOTHY J. ASPINWALL

Administrative Law Judge

Office of Administrative Hearings

NOTICE

This is the final administrative decision. Each party is bound by this decision. Either party request a reconsideration within 15 days of receiving this decision (Welf. & Inst. Code § 4713, subd. (b)), or appeal this decision to a court of competent jurisdiction within 180 days (Welf. & Inst. Code § 4712.5, subd. (a)).