

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

In the Matter of:

CLAIMANT

and

WESTSIDE REGIONAL CENTER, Service Agency.

DDS Nos. CS0024443, CS0024487

OAH Nos. 2025020697, 2025020794

DECISION

Administrative Law Judge Juliet E. Cox, Office of Administrative Hearings, State of California, heard these consolidated matters on April 1, 2025, by videoconference.

Claimant's mother appeared for claimant, who was not present.

Director's Designee Sonia Tostado appeared for service agency Westside Regional Center.

Oral and documentary evidence was received. The record was closed, and the matter was submitted for decision on April 1, 2025.

ISSUES

1. Must Westside Regional Center (WRC) approve funding, by parent reimbursement, for claimant to receive recreational services at Balmoral Farm, an equestrian center?
2. Must WRC approve an increase in funding for claimant's music lessons?

FACTUAL FINDINGS

1. Claimant is four years old and lives with his family. He is a WRC consumer because of substantial disability arising from autism spectrum disorder.
2. Claimant's verbal communication is weak, by comparison with non-disabled peers, and he interacts poorly or not at all with most people outside his family. He is especially interested in music and animals. Claimant's family wishes to use these interests to provide enjoyable recreational activities for claimant while also helping him improve his social, communication, and self-regulation skills.

Equestrian Therapy

3. Because of claimant's strong interest in animals, his mother believed that equestrian therapy might be valuable to him. She investigated services available through a WRC vendor, Ahead With Horses, and learned that the vendor has such a long waiting list that claimant likely would wait more than a decade to start there. For this reason, claimant's mother explored alternative service providers.
4. Balmoral Farm is another stable that is geographically very near to Ahead With Horses, and convenient for claimant's family. Balmoral Farm is not a WRC vendor.

5. Claimant's mother began taking claimant to Balmoral Farm when he was three years old. She did not describe exactly what activities claimant has done at the stable, or with what instructors or other children, except to mention grooming and feeding ponies or small horses. According to a short email message in evidence, Balmoral Farm is a "show barn" that offers services "to riders interested in eventually competing and leasing/owning a horse," not a "lesson barn." No other literature or testimony about claimant's activities at Balmoral Farm, or about the stable's staff members' training and experience, is in evidence. No information is in evidence about Balmoral Farm's fees.

6. According to claimant's mother, the wildfires in Los Angeles County in early 2025 caused Balmoral Farm to evacuate temporarily and suspend its activities, although the fires did not destroy the stable's facilities. She would like to resume claimant's activities there, and would like WRC to fund these activities as a form of social and recreational activity or nonmedical therapy for claimant.

7. Claimant's current Individual Program Plan (IPP) calls for WRC to fund music lessons for almost 15 hours each month (as described below), tutoring for 10 hours each month, and eight sessions each month at a children's physical education center. Claimant also attends half-day preschool on weekdays. The evidence does not address how frequently claimant's family would like him to visit Balmoral Farm, or for how long, and does not address whether this activity would be in addition to or instead of some of claimant's other scheduled activities.

8. WRC policy allows WRC to fund equestrian activities that serve a WRC consumer's recreational or therapeutic needs, as identified in the consumer's IPP. If the service is funded as nonmedical therapy, WRC policy requires that the provider of such service hold a therapeutic credential. WRC also must evaluate the service's

cost-effectiveness, and must consider how the activity fits into the consumer's "total constellation of existing services and supports." The WRC "Executive Director or their designee may review and authorize service requests that do not meet these general standards if warranted by individual circumstances."

9. When WRC consumers participate in social and recreational activities, or nonmedical therapy, with service providers whose primary clientele are not WRC consumers, the Department of Developmental Services (DDS) permits WRC to pay for these activities through a Financial Management Service (FMS) rather than requiring the provider to become a WRC vendor. According to claimant's mother, however, the people who own and operate Balmoral Farm previously have had a "nightmare" experience receiving payment through an FMS, and do not wish to receive payment for claimant's services in this manner.

10. A memorandum in evidence from DDS to all statewide regional center directors states that if a regional center consumer's family is "interested in social recreation, camping, and nonmedical therapy services from certain providers that are not willing to utilize or work with an FMS," the regional center may have an FMS reimburse the family directly for the cost of the service.

11. Claimant's mother proposes that claimant's family pay for claimant to engage in equestrian activities at Balmoral Farm, and that WRC reimburse his family for this expense. WRC denied this request, and claimant timely appealed.

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Music Lessons

12. Claimant has been receiving music lessons from Janelle DeJohn for about 18 months. DeJohn sees claimant at claimant's home. His most recent IPP states that WRC will pay \$1,950 per month for these lessons. DeJohn receives payment through an FMS.

13. Claimant's mother describes claimant's relationship with DeJohn as "a very tight bond." Although DeJohn is not licensed or certified specifically as either a music therapist or a speech-language pathologist, claimant's strong interest in music makes him especially receptive to communication and socialization lessons he receives by singing and playing instruments with DeJohn. Claimant's mother also states that DeJohn has taught claimant consistently, and is a stable presence in his life, unlike some other service providers who have come and gone. Claimant's mother fears, reasonably, that claimant would suffer if he no longer could take music lessons with DeJohn.

14. According to a letter DeJohn wrote to WRC in January 2025, she sees claimant for 13 lessons each month (approximately three times per week), at \$150 per lesson. Each lesson is 68 minutes long.

15. DeJohn's January 2025 letter requests approval to extend each of claimant's lessons from 68 to 90 minutes, but to maintain the same number of lessons per month. Her fee for a 90-minute lesson would be \$225.

16. This change would increase the total monthly budget for DeJohn's lessons from \$1,950 (13 lessons at \$150 per lesson) to \$2,925 (13 lessons at \$225 per lesson). It would increase DeJohn's effective hourly service rate from \$132.35 (\$150 for 68 minutes, or \$2.21 per minute) to \$150 (\$225 for 90 minutes, or \$2.50 per minute). It

would increase claimant's monthly service minutes for music lessons from 884 minutes (13 68-minute lessons) to 1,170 minutes (13 90-minute lessons).

17. According to WRC, \$225 per lesson is "above the standard rate that WRC funds for social recreational activities." WRC also has other music instructors who are WRC vendors. On the ground that DeJohn's services, as proposed, would not be cost-effective, WRC has declined to increase funding as DeJohn and claimant have requested.

18. The evidence does not establish the maximum rate WRC ordinarily funds for music lessons provided by instructors who are not credentialed as music therapists or as speech-language pathologists. It also does not establish whether this maximum rate is hourly, per lesson, or otherwise. Finally, the evidence does not establish whether WRC has considered the additional time that claimant and DeJohn propose to devote to music lessons, either as an explanation for the cost increase or as an overall component of claimant's service program.

19. Despite her preference to continue with DeJohn, claimant's mother has investigated whether another music lesson provider who is a WRC vendor might be a suitable replacement. Claimant's mother understands this provider, Arabesque Conservatory, to charge \$125 per hour, and to have a three to six month waiting list.

20. After WRC denied DeJohn's and claimant's request to amend claimant's IPP to increase funding for music lessons, claimant timely appealed.

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LEGAL CONCLUSIONS

1. A fair hearing is available under Welfare and Institutions Code section 4712 to any regional center consumer who disagrees with a regional center's decision not to initiate or increase a service the consumer has requested. (Welf. & Inst. Code, § 4710, subd. (b).) As the appellant on both issues in this hearing, claimant bears the burden of showing that the Lanterman Developmental Disabilities Services Act (the Lanterman Act, Welf. & Inst. Code, § 4500 et seq.) entitles him to the services he asks WRC to fund.

2. All regional center services must meet needs relating to a consumer's developmental disability. (Welf. & Inst. Code, §§ 4646, subd. (a), 4648, subd. (a).) In addition, the Lanterman Act requires regional centers to serve consumers in a manner that not only serves "the preferences and choices of the consumer" but also is a "cost-effective use of public resources." (Welf. & Inst. Code, § 4648, subd. (a).) Recreational services are specifically eligible under the Lanterman Act for regional center funding (*id.*, § 4688.22), but like all Lanterman Act services must serve the consumer's IPP goals and must be cost-effective.

3. The matters summarized above in Findings 3 through 7 do not establish definitively that activities at Balmoral Farm would be unsuitable for claimant, would fail to complement his other services and supports, or would not be cost-effective. At the same time, the minimal evidence available about these activities also does not establish that these activities would serve the needs claimant's IPP identifies, would be cost-effective, and would not overtax him in light of his other activities. Claimant did not meet his burden at this hearing to establish that WRC must add funding for

Balmoral Farm to his IPP, or that WRC must implement this funding by reimbursing claimant's family for this expense.

4. The matters summarized above in Findings 12 through 14 show that claimant's music lessons and relationship with DeJohn serve some needs identified in his IPP, and that the volume of service in his current IPP complements his other activities. The matters summarized in Findings 13 and 19 also show that changing music instructors likely would harm claimant.

5. The matters summarized in Findings 15 through 18 do not show definitively either that DeJohn's proposed fee is unreasonably high, or that additional music lesson minutes each month would overtax claimant rather than serving his needs. Nevertheless, these matters are inadequate to show that WRC must amend claimant's IPP to call for 13 90-minute music lessons, rather than 13 68-minute lessons (or 9 90-minute lessons, or some other number and duration of lessons), per month. These matters also are inadequate to show that \$225 per 90-minute lesson is a cost-effective fee for this service. Claimant did not meet his burden at this hearing to establish that WRC must approve an IPP amendment increasing monthly funding for DeJohn's music instruction services.

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ORDER

Claimant's appeals are denied.

DATE:

JULIET E. COX

Administrative Law Judge

Office of Administrative Hearings

NOTICE

This is the final administrative decision. Each party is bound by this decision. Either party may request reconsideration pursuant to subdivision (b) of Welfare and Institutions Code section 4713 within 15 days of receiving the decision, or appeal the decision to a court of competent jurisdiction within 180 days of receiving the final decision.

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ORDER DENYING CLAIMANT’S APPLICATION FOR RECONSIDERATION

An Administrative Law Judge (ALJ) from the Office of Administrative Hearings (OAH) issued a final decision in this matter on April 4, 2025.

On April 15, 2025, Claimant’s authorized representative applied to OAH for reconsideration of the decision under Welfare and Institutions Code section 4713 (application). (All further references are to the Welfare and Institutions Code, unless otherwise designated.) The application was timely submitted. Westside Regional Center (WRC) was notified of the application, as was the Department of Developmental Services.

The undersigned hearing officer, who did not hear the matter or write the decision for which reconsideration is requested, was assigned to decide the application.

Pursuant to section 4713, subdivision (b), a party may apply for reconsideration to correct a mistake of fact or law or a clerical error in the decision, or to address the decision of the original hearing officer not to recuse themselves following a request pursuant to section 4712, subdivision (g).

In the decision, the ALJ denied Claimant's appeal requesting for him to receive recreational services at Balmoral Farm, an equestrian center, and for WRC to approve an increase in funding for claimant's music lessons. The application requests a correction of a mistake of fact or law based on "Title 22." In response to a question asking, "[o]n what page and line did the mistake occur, and what is the correction needed," the application states: "the regional center does not have nor will provide a provider or replacement provider. Resolution or corrective action plan has not been resolved." WRC did not file any response to the application.

The application does not specify a particular "mistake of fact or law." It is difficult to determine, based on the application, what Claimant is requesting for reconsideration, as it does not identify any factual findings or legal conclusions in the decision which any mistake purportedly occurred.

ANALYSIS

Section 4713, subdivision (b), allows reconsideration "for a correction of a mistake of fact or law." Pursuant to section 4713, subdivision (d), the application for reconsideration must be decided within 15 days of receipt; the hearing office

responsible for deciding the application may deny it, grant it and modify the decision, or grant it and set the matter for another hearing.

The wording of section 4713, subdivision (b), as well as the expedited deadline for deciding an application set by section 4713, subdivision (d), make clear that the mistake of fact or law in question must be apparent from the decision, such as an obvious mathematical error in calculating hours of service, an order that fails to accurately encompass the legal conclusions, citation to the wrong statute, or reliance on a law that is no longer in effect. In such instances, the hearing office can either correct the mistake if the resolution is apparent from the decision, or order the matter to be reheard if the resolution is not apparent.

In this case, Claimant fails to identify any such mistake of fact or law in the decision. The application refers to "Title 22" as the basis for the request for reconsideration. However, the decision does not cite to California Code of Regulations, title 22, to support any of its legal conclusion. Additionally, California Code of Regulations, title 22, does not govern regional center proceedings. The relevant regulations for regional center cases are set forth under California Code of Regulations, title 17. Presumably, Claimant's request for WRC for a "provider or replacement provider" means that Claimant wishes to participate in certain recreational activities and wishes for WRC to suggest vendors as alternatives to Balmoral Farm. If so, Claimant needs to raise this issue with WRC as a part of his Individual Program Planning rather than in the application to reconsider the decision.

For these reasons, the application must be denied.

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ORDER

Claimant's application for reconsideration of the final decision is DENIED.

DATE:

JI-LAN ZANG

Administrative Law Judge

Office of Administrative Hearings