

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

**In the Matter of:**

**CLAIMANT,**

**vs.**

**WESTSIDE REGIONAL CENTER,**

**Service Agency.**

**DDS No. CS0025393**

**OAH No. 2025031108**

**DECISION**

Ji-Lan Zang, Administrative Law Judge (ALJ), Office of Administrative Hearings, State of California, heard this matter on May 5 and June 9, 2025, by videoconference.

Ron Lopez, I.D.E.A. Specialist, represented Westside Regional Center (WRC).

Claimant's mother (Mother) represented claimant as her authorized representative. Claimant did not appear at the hearing. Claimant and her family members are identified by their titles to protect their privacy.

Oral and documentary evidence was received. The record was closed, and the matter was submitted for decision on June 9, 2025.

## **ISSUE**

Should WRC be required to fund claimant's placement at Barman Home (Barman), an Intermediate Care Facility (ICF) operated by Exceptional Children's Foundation (ECF)? In the alternative, should WRC be required to provide claimant with housing vouchers in amount of \$2,200 per month?

## **EVIDENCE RELIED ON**

Documentary: WRC's exhibits 1-20; Claimant's exhibits C1-C95.

Testimonial: Mother and TuLynn Smylie (Smylie) (Chief Operating Officer of ECF).

## **FACTUAL FINDINGS**

### **Jurisdictional Matters**

1. Claimant is a 23-year-old female client of WRC. She is not conserved and qualifies for regional center services under a diagnosis of autism spectrum disorder.
2. On March 21, 2025, Service Agency sent claimant a Notice of Action denying her request to fund her placement at Barman. Claimant filed a request for a fair hearing. All jurisdictional requirements have been met.

## **Claimant's Individual Program Plan (IPP)**

3. Claimant's most recent IPP, dated May 10, 2024, contains WRC's and claimant's agreements, sets forth specific objectives and goals, and contains the services and supports to achieve them. (Ex. 5.) It also describes claimant's needs and behaviors.

4. According to the IPP, claimant is "very smart and independent." (Ex. 5, p. A26.) The IPP incorporates information on claimant's behaviors from a Client Development Evaluation Report (CDER) that claimant's consumer service coordinator Bryce Graham (CSC Graham) completed on May 10, 2024. (Ex. 9.) The CDER indicates claimant can use fingers of both hands to manipulate objects; walk alone at least 20 feet with good balance; and walk without the use of a wheelchair. Claimant also can feed herself with utensils; use toilet independently; perform personal care activities, but with assistance; and dress herself independently, but with reminder to complete the task. Claimant can focus on a preferred task or activity between five and 15 minutes; use sentences of three words or more and has a vocabulary of more than 30 words; and understand non-verbal communication and gestures. Although claimant does not initiate social interaction with others, her disruptive social behaviors occur less than once a month. Claimant does not display aggressive behaviors, and she did not cause any injuries within the last 12 months. Claimant has a history of self-injurious behavior and may require the presence of someone nearby to prevent injury. Claimant sometimes exhibits emotional outbursts, but they occur less than once a month. Claimant may also elope, but this behavior also occurs less than once per month.

5. The IPP indicates that as of May 2024, claimant was living on the couch of a family friend and she needed assistance finding a permanent residence. (Ex. 5, p. A28.) Claimant was also looking for jobs in retail or as a waitress. (*Ibid.*) In the section

of the IPP entitled "Desired Outcomes," the first outcome is: "[Claimant] will reside in her own apartment with access to necessary supports." (*Id.*, p. A34.) The plan for claimant and her family to achieve this outcome is: "[family friend] will continue to provide [claimant] a nurturing and safe environment. [Claimant] will attempt to access and utilize generic resources such as social security income [SSI] benefits and ACCESS." (*Id.*, pp. A34-A35.) The plan for community support to achieve this outcome is: "[Service Coordinator] has given the following generic resources to [claimant]: SSI and ACCESS. [Claimant] will access those resources as needed." (*Id.*, p. A35.) The plan for WRC support to achieve this goal is: "[Claimant] agreed to be referred to CA Mentors housing program. [Service Coordinator] will submit referral and submit POS once service report is complete." (*Id.*, p. A35.)

### **Claimant's IPP Addenda**

6. In a May 30, 2024 IPP Addendum, the following update was added to claimant's IPP:

The following has changed since the IPP was developed:  
[claimant] has stated that she would like to continue working with her Service Coordinator Bryce Graham and that Westside Regional Center does not release any information to [Mother] including where [claimant] lives and resides. [Claimant] does not want [Mother] to make decisions for her, [claimant] will make her own decisions.

(Ex. 6, p. A38.)

7. Another IPP Addendum, dated May 30, 2024, reflects that claimant is receiving 70 hours of In-Home Supportive Services per month. (Ex. 7.)

8. The IPP and the IPP Addenda do not contain any goals for claimant to be housed at Barman or any other ICF. The IPP and the IPP Addenda also do not contain any plans for claimant and her family, community support, or WRC support to achieve such an outcome.

### **Other Documents Relating to Claimant's Condition**

9. A psychological evaluation, dated March 13, 2005, by Beth Levy, Ph.D., was admitted into evidence. (Ex. 8.) Dr. Levy performed this psychological evaluation when claimant was two years and nine months old. In this evaluation, Dr. Levy diagnosed claimant with autistic disorder. (*Id.*, p. A51.)

10. Mother also submitted a medical note, dated June 27, 2024, from UCLA Medical Center indicating a plan to admit claimant for inpatient psychiatric hospitalization. The "Diagnostic Impression" section of the note lists "Suicidal ideation [¶] ASD [Autism Spectrum Disorder] [¶] MDD [Major Depressive Disorder], recurrent, severe, without psychotic features [¶] History of GAD [Generalized Anxiety Disorder] [¶] History of OCD [Obsessive Compulsive Disorder] [¶] History of PTSD [Post Traumatic Stress Disorder]." (Ex. C20, p. B181.)

11. No other psychological or medical evaluations regarding claimant's current condition and level of functioning were submitted.

### **Mother's Testimony**

12. At the hearing, Mother testified regarding claimant's condition and her request for placement at Barman or in the alternative, \$2,200 in monthly housing vouchers. From 2020 to 2021, claimant went to college at Wesleyan University (Wesleyan). However, according to Mother, claimant suffers from acute general anxiety

disorder, acute obsessive-compulsive disorder, and major depressive disorder.

Claimant had, in Mother's words, a "psychiatric breakdown" while attending Wesleyan, which required the assistance of emergency response teams. In June 2022, at the end of her freshman year, Wesleyan expelled claimant. Claimant returned to California and began taking two psychiatric medications which seemed to control her condition.

Claimant then went to Oregon to attend Lewis and Clark University. However, claimant stopped her medications and experienced an acute psychiatric crisis. She once again returned to California at the end of the school year in 2024.

13. Mother testified she was present at the IPP meeting on May 10, 2024, the subject of which was finding housing for claimant. Mother asserted that every party left the meeting with the understanding that claimant must be placed in housing in the Culver City area because claimant has lived in that city since she was four years old and her family support also lives there. Mother accused WRC of "lying" and "gaslighting" claimant by promising to find housing for her. At the end of May 2024, WRC found a licensed facility for claimant in Inglewood (Inglewood Facility). Mother described the Inglewood Facility as a "crack house" and the surrounding neighborhood as "ghetto." Mother asserted that it was a two- to three-hour bus ride from the Inglewood Facility to Culver City, and claimant was isolated from her family support. On May 30, 2024, Mother wrote numerous emails to WRC that claimant did not wish to go to this facility in Inglewood. Despite her protests, claimant was placed in the facility in Inglewood the following day.

14. Mother asserted that there was no supervision and no other resident at the Inglewood Facility. Claimant was there alone and suffered another psychiatric crisis. On June 6, 2024, claimant eloped from the Inglewood Facility and could not be

found. Mother sent multiple emails to WRC, but she claimed WRC never sent her any acknowledgement or response to those emails.

15. On June 27, 2024, claimant was admitted at UCLA Medical Center for an involuntary psychiatric hold. She was released two weeks later. Mother accused WRC of not rendering any help to claimant and not checking on claimant while she was at UCLA Medical Center.

16. On July 14, 2024, claimant returned to Oregon, but she flew back to Los Angeles around Christmas time in December 2024. Mother stated that claimant contacted WRC at that time to request housing in Culver City. However, claimant went back to Oregon in the middle of January 2025, as she was scheduled to return to her college.

17. In late January 2025, Keisha LaMarr (LaMarr), EFC's residential administrator called Mother and informed her that a room was available for claimant at Barman. Claimant returned to California due to the availability of the room in Barman. On February 14, 2025, Mother spoke with LaMarr, who told Mother that the room was still available.

18. On March 1, 2025, Mother spoke with Celia Montes (Montes), EFC's Housing Director. According to Mother, Montes reported to her that claimant was expected to meet the housing manager at Barman on March 8 and enter the house on a "trial basis" that same day. However, on March 11, 2025, LaMarr called Mother and informed her that WRC would not allow claimant to move in because her level of disability did not qualify for housing at Barman.

19. Mother expressed her anger and frustration at this process. She contended claimant's level of disability qualified her for housing at Barman. Mother

stated the claimant is “unemployable.” Mother reported the last time claimant was employed was in March 2023, when claimant ran away after holding a part time job for three weeks. Claimant also could not hold down a job as a theater assistant when she was at Lewis and Clark University because she was constantly calling in sick. Mother enumerated claimant’s deficiencies as noted in the May 10, 2024 CDER. Mother believes WRC’s documentation of claimant’s disability in the May 10, 2024 CDER substantiates her assertion that claimant qualifies for ICF housing at Barman. However, Mother noted that CSC Graham failed to document the severity of claimant’s psychiatric conditions and at least two other psychiatric medications that claimant is currently taking.

20. Mother also made numerous allegations that WRC’s director purposefully blocked claimant’s access to Barman as retaliation for Mother’s complaints against WRC when claimant was placed in the Inglewood Facility in 2024. Mother further alleged WRC offered and then took away the possibility of housing at another EFC facility, Keystone House, in retaliation. Such allegations were not supported by evidence.

21. Mother testified that claimant is currently homeless and requires immediate placement in Barman, or, in the alternative, housing vouchers in the amount of \$2,200 per month, so that claimant may be placed in housing in the Culver City area. Mother does not believe an IPP meeting is necessary before claimant’s request for housing is approved because, in Mother’s opinion, the May 10, 2024 IPP is still in effect.

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## **Smylie's Testimony**

22. Mother subpoenaed several EFC employees to compel them to testify at the hearing. Most of these subpoenaed EFC witness did not wish to testify at the hearing. The ALJ declined to enforce those subpoenas for reasons set forth in Legal Conclusions 5 to 7. However, Smylie, EFC's Chief Operating Officer, voluntarily testified at the hearing.

23. Smylie testified that EFC first received a referral from WRC for claimant's placement at Barman in January 2025. However, after hosting claimant for a tour of Barman in March 2025, WRC told EFC that it made a mistake in the referral and claimant did not qualify for placement at Barman. Smylie emphasized that claimant was never accepted at Barman as a permanent placement. She explained that claimant was accepted at Barman on a respite basis, which is not the same as a permanent placement. According to Smylie, staying at Barman on a respite basis is temporary in nature, usually lasting two to three weeks, so that EFC can ensure a resident is fully qualified and fits in with the other residents. Smylie confirmed that EFC currently does not have a referral from WRC to place claimant at Barman.

24. Smylie also explained that a placement at Keystone House, which is not an ICF, was offered to claimant. However, the program team at Keystone House realized that the room offered to claimant is used to provide day programming for its residents. The programming team decided it was in the best interest of its current residents to withdraw the offer of housing at Keystone House so that the room may continue be used for day programs.

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## **WRC's Position**

25. WRC concedes that it made a mistake in referring claimant to Barman, although it could not specify how or why such a mistake was made. Nevertheless, WRC contends claimant does not qualify for ICF housing under the relevant laws and regulations because she has no need for recurring nursing services and did not obtain the necessary physician's authorizations. (Ex. 1, p.A2.) WRC further contends claimant reactivated her case with WRC after returning to California from Oregon in March 2025. Under these circumstances, WRC is obligated to meet with her for an IPP, but claimant has refused to do so. (*Ibid.*)

## **LEGAL CONCLUSIONS**

### **Burden and Standard of Proof**

1. 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 WRC is required to fund her placement at Barman, or, in the alternative, fund housing vouchers in the amount of \$2,200 per month. (Evid. Code, § 115.) She has not met that burden.

### **Statutory Framework**

2. The Lanterman Developmental Disabilities Services Act (Lanterman Act) (Welf. & Inst. Code, § 4500 et seq.) 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. To comply with the Lanterman Act, a regional center must provide services and supports that "enable persons with developmental disabilities to approximate the pattern of everyday living available to people without disabilities of the same age." (Welf. & Inst. Code, § 4501.) The types of services and supports that a regional center must provide are "specialized services and supports or special adaptations of generic services and supports directed toward the alleviation of a developmental disability or toward the social, personal, physical, or economic habilitation or rehabilitation of an individual with a developmental disability, or toward the achievement and maintenance of independent, productive, normal lives." (Welf. & Inst. Code, § 4512, subd. (b).) The determination of which services and supports the regional center shall provide is made "on the basis of the needs and preferences of the consumer or, when appropriate, the consumer's family, and shall include consideration of a range of service options proposed by individual program plan participants, the effectiveness of each option in meeting the goals stated in the individual program plan, and the cost-effectiveness of each option." (*Ibid.*) However, regional centers have wide discretion in determining how to implement an IPP. (*Association for Retarded Citizens, supra*, 38 Cal.3d at p. 390.)

4. As set forth in Welfare and Institutions Code, section 4646, subdivision (a):

It is the intent of the Legislature to ensure 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, where appropriate, as well as promoting community integration, independent, productive, and normal lives, and stable and healthy environments. 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.

## **Subpoena**

5. As described above, the ALJ declined to enforce claimant's subpoena of EFC witnesses who did not wish to testify at the hearing. The use of subpoenas to compel witnesses to testify at this hearing is not specifically precluded. Welfare and Institutions Code section 4415 provides, "Except as in this chapter otherwise prescribed, the provisions of the Government Code relating to state officers and departments shall apply to the [DDS]." Additionally, Government Code section 11410.20, subdivision (a), provides that the chapter dealing with subpoenas (commencing with Government Code section 11400), "applies to all agencies of the

state," unless "otherwise expressly provided by statute." Government Code section 11405.30 defines "agency" as a "board, bureau, commission, department, division, office, officer, or other administrative unit, including the agency head, and one or more members of the agency head or agency employees or other persons directly or indirectly purporting to act on behalf of or under the authority of the agency head." Furthermore, the portion of the Administrative Procedure Act (APA) in which subpoena authority is found "supplements the governing procedure by which an agency conducts an adjudicative proceeding" (Gov. Code, § 11415.10, subd. (b)), and "[a]n agency may use the subpoena procedure provided in this article in an adjudicative proceeding not required to be conducted under [the APA]" (Gov. Code, § 11450.05, subd. (b)).

6. However, Welfare and Institutions Code section 4706, subdivision (a), provides "all issues concerning the rights of persons with developmental disabilities to receive services under this division shall be decided under this chapter, including those issues related to fair hearings. . . ." Additionally, the Lanterman Act is an apparently comprehensive statutory scheme to provide services and supports to persons with developmental disabilities, and it details the rights and responsibilities for those involved in the fair hearing process. No subpoena procedures are included in the Lanterman Act. Moreover, even if the Government Code subpoena provisions were applicable to Lanterman Act fair hearings, the Lanterman Act provides no mechanism for enforcement of APA subpoena provisions.

7. Moreover, as the ALJ noted on the record, much of the evidence claimant sought to elicit from the subpoenaed EFC witnesses was admitted into the record. For example, all documentary evidence from EFC, detailing the exchanges between WRC, EFC, and Mother, were admitted into the record without the need for further witness

testimony. Smylie, EFC's Chief Operating Officer, also testified at the hearing and explained the basis under which claimant was accepted at Barman. Thus, the witness testimony claimant sought to compel through subpoena would not necessarily further assist in the determination of this case.

### **Claimant's Eligibility for ICF Placement**

8. The parties dispute claimant's eligibility for placement at Barman, which is an ICF. Health and Safety Code section 1250 defines ICF as a "health facility that provides inpatient care to ambulatory or nonambulatory patients who have recurring need for skilled nursing supervision and need supportive care, but who do not require availability of continuous skilled nursing care."

9. Furthermore, California Code of Regulations, title 22, section 51343, subdivision (f), enumerates the factors to be considered in determining an applicant's need for ICF services, as follows:

- (1) The extent of psychosocial and developmental service needs.
- (2) The need for specialized developmental and training services which are not available through other levels of care.
- (3) The extent to which provisions of specialized developmental and training services can reasonably be expected to result in a higher level of patient functioning and a lessening dependence on others in carrying out daily living activities.

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(4) The individual's score on an assessment form approved by the Department of Developmental Services for the determination of intermediate care facility/developmentally disabled eligibility.

(5) Whether the patient has a qualifying developmental deficit in either a self-help area or social-emotional area as follows:

(A) A qualifying developmental deficit shall be determined in the self-help skill area if the patient has two moderate or severe skill task impairments in eating, toileting, bladder control or dressing skill task; or

(B) A qualifying developmental deficit shall be determined in the social-emotional area if the patient exhibits two moderate or severe impairments from a combination of the following assessment items:

1. Social behavior,
2. Aggression,
3. Self-injurious behavior,
4. Smearing,
5. Destruction of property,
6. Running or wandering away,

7. Temper tantrums, or emotional outbursts.

10. On this record, the only full psychological evaluation of claimant submitted into evidence was Dr. Levy's March 13, 2005 evaluation of when claimant when she was two year and nine months old. The record also contains CSC Graham's May 10, 2024 CDER and the June 27, 2024 medical note admitting claimant for psychiatric hospitalization at UCLA Medical Center. All these records are from at least one year ago and provide little information about claimant's current level of functioning and whether she has a recurring need for skilled nursing supervision and supportive care, as required by Health and Safety Code section 1250. Although Mother testified that claimant currently has such a need, this testimony is no substitute for an assessment by a medical or psychiatric professional about whether claimant's current condition satisfies the factors listed under California Code of Regulations, title 22, section 51343, subdivision (j).

11. Mother is understandably frustrated with this process, as WRC could not explain how or why it made the wrong referral to place claimant at Barman. However, there is insufficient evidence on this record to determine whether claimant is currently eligible for ICF placement. Smylie also testified that Barman does not have a current referral from WRC and thus cannot accept claimant as a resident. Under these circumstances, there is no cause to grant claimant's request for immediate placement at Barman at this time.

12. Nevertheless, claimant's most recent IPP is from May 10, 2024, and it does not reflect any goals for claimant to be placed in an ICF or any supports to achieve such a goal. Therefore, consistent with Welfare and Institutions Code sections 4646 and 4648, the parties must meet for an IPP. WRC must also assess claimant's



current medical and psychological condition to determine her eligibility for ICF placement.

### **Claimant's Request for Housing Vouchers**

13. Claimant cited Welfare and Institutions Code section 4689, subdivision (i), in support of her request for housing vouchers in the amount of \$2,200 per month. That statute states, in relevant part: "A regional center may make rent, mortgage, or lease payments on a supported living home, or pay for household expenses of consumers receiving supported living services only under the following circumstances...." As the plain language makes clear, payment of rent under the statute is only for a supported living home for consumers receiving supported living services. Supported living homes are homes that adults with developmental disabilities "own or lease with support available as often and for as long as it is needed." (Welf. & Inst. Code § 4689.) Supported living services include "assessment of consumer needs; assistance in finding, modifying and maintaining a home; facilitating circles of support to encourage the development of unpaid and natural supports in the community; advocacy and self-advocacy facilitation; development of employment goals; social, behavioral, and daily living skills training and support...." (Welf. & Inst. Code § 4689, subd. (c).) There is no evidence that claimant is living in a supported living home and receiving supported living services. Therefore, claimant's request for housing vouchers must be denied at this time.

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## **ORDER**

1. Claimant's appeal is denied at this time.
2. Both claimant and/or her authorized representative(s) and WRC shall hold an Individual Program Plan (IPP) meeting consistent with Welfare and Institutions Code sections 4646 and 4648 to reflect the parties' agreements regarding claimant's request for placement at an Intermediate Care Facility.
3. WRC shall perform assessments of claimant's current medical and psychological condition to determine her eligibility for placement at an Intermediate Care Facility.

DATE:

JI-LAN ZANG

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.