

**BEFORE THE
DEPARTMENT OF DEVELOPMENTAL SERVICES
STATE OF CALIFORNIA**

In the Matter of:

CLAIMANT

and

REGIONAL CENTER OF THE EAST BAY, Service Agency.

DDS No. CS0026105

OAH No. 2025040848

PROPOSED DECISION

Administrative Law Judge Stephanie E. Haffner, State of California, Office of Administrative Hearings, heard this matter on June 3, 2025, by videoconference.

Claimant represented herself.

Executive Director's designee Ronke Sodipo represented service agency Regional Center of the East Bay (RCEB).

The matter was submitted for decision on June 2, 2025.

ISSUE

Must claimant, a consumer with income above 400 percent of the federal poverty level, verify her income for RCEB to fund the health insurance policy copayment to replace a power wheelchair?

FACTUAL FINDINGS

1. Claimant is an adult consumer of services from RCEB. She has cerebral palsy, which is her qualifying diagnosis for services under the Lanterman Developmental Disabilities Services Act (Lanterman Act, Welf. & Inst. Code, § 4500 et seq.). (All further statutory references are to the Welfare and Institutions Code unless stated otherwise.) Claimant receives RCEB-funded services through the Self-Determination Program (SDP, see § 4685.8).

2. Claimant uses a power wheelchair to ambulate. She seeks to replace her current power wheelchair, last replaced in 2018, with a doctor-prescribed, medically equivalent model that has equivalent features to her current chair. A power wheelchair is considered durable medical equipment.

3. Claimant initiated a request with her case manager, Marie Mann, for \$3,000 to \$3,500 from RCEB to cover the health insurance policy copayment to replace her power wheelchair.

4. Claimant is a federal employee and has income above 400% of the federal poverty level. She seeks funding from RCEB for the copayment under section 4659.1, subdivision (d)(3), as a "significant" unreimbursed medical cost associated with her care.

5. Christine Hanson, RCEB Associate Director for Adult Services, testified and described RCEB's process to determine reimbursement for durable medical equipment. RCEB employs occupational therapists whose role is to meet with the consumer, assess the need, and make a recommendation to a multidisciplinary team concerning the request. An occupational therapist evaluates whether the request is necessary to maintain the consumer in the least-restrictive setting. The occupational therapist also is knowledgeable about medical equipment needs that insurance policies will not cover, in which cases RCEB generally will cover the cost if recommended by the occupational therapist.

6. When an adult consumer's medical equipment need is covered by a health insurance policy, RCEB may fund a copayment, coinsurance, or deductible if the consumer's gross income does not exceed 400 percent of the federal poverty level and there is no other third party responsible for the cost. RCEB has an exception process for consumers with income above 400 percent of the federal poverty level, which involves the consumer submitting an invoice or quote to RCEB for the requested cost, along with documentation of any generic resources such as insurance that would contribute towards payment of the cost. Additionally, RCEB requires documentation of the consumer's income and monthly expenses to assess financial hardship. Using this information, the interdisciplinary team, consisting of the case manager, case manager supervisor, and associate director, reviews the exception request and makes a decision.

7. In this case, as per RCEB's process, occupational therapist Daniel Lin met with claimant to evaluate her need for the requested equipment. RCEB does not dispute that replacement of the power wheelchair is necessary to maintain claimant in the least-restrictive setting.

8. Mann testified at hearing that, per RCEB's process, she asked claimant to provide documentation of the amount of the unreimbursed expense for the power wheelchair and verification of her income.

9. Claimant did not provide any documentation of the power wheelchair expense or her income. Instead, on April 18, 2025, claimant filed this appeal for the reason that:

[RCEB] is refusing to cover the \$3000 copay for my power wheelchair, after I was initially told by their OT that they would cover it. They are now saying that in order to cover it I would need to be under the federal poverty line, but when I asked for the policy guidance there are clearly many reasons that are exceptions to that requirement that apply to me, and they are still insisting that I submit financial information. They are refusing to give me a decision until I submit all of my financial information. . . .

10. On April 22, 2025, RCEB issued a notice of action denying funding of a health insurance policy copayment of \$3,000 for the stated reason that claimant "has not submitted the requested documentation to RCEB in order for RCEB to assess whether or not she meets the criteria for FPL (Federal Poverty Limits). RCEB may fund a client's insurance co-pay if the client meets FPL criteria."

Claimant's Additional Evidence

11. According to claimant, the standard to replace a power wheelchair is every five years, and her wheelchair is two years overdue for replacement. As time passes, it becomes more difficult to make repairs and find replacement parts.

12. Claimant stated that, as a federal employee, "there is a high likelihood" that she will either change jobs or become unemployed. Claimant is particularly concerned to replace the power wheelchair in the event she must frequently commute into an office upon obtaining new employment.

13. Claimant testified that when she met with the occupational therapist, he stated that RCEB would cover the amount of the copayment for the replacement power wheelchair. She understood from Lin that it was standard practice for RCEB to cover such copayments.

14. Claimant declined to provide detailed financial information to RCEB "to protect" her privacy. Moreover, she states that her past year's tax returns do not reflect her current resources because her employment income and employer-sponsored health insurance are currently uncertain. She also believes that RCEB's actions are arbitrary given that she is aware of other gainfully employed consumers who have received RCEB funding to replace their power wheelchairs, without being required to provide detailed financial information.

15. Claimant stated that during the pendency of this dispute, the health insurance policy authorization to replace the power wheelchair lapsed. She estimates that the copayment would be \$3,000 to \$3,500 when renewed, depending on her health insurance coverage when the request is made. Claimant asserts that a copayment expense of \$3,000 to \$3,500 is inherently a "significant unreimbursed medical cost" associated with her care. Moreover, she considers the expense to be significant for her.

16. Claimant stated that she has managed her SDP budget well and has adequate funds in the budget to cover the power wheelchair copayment. She does not seek additional funds beyond those already authorized in the SDP budget.

17. Claimant stated that the regional center's failure to provide funding "will delay" her purchase of a replacement power wheelchair given the uncertainty of her current finances. She stated that if she does not obtain a replacement power wheelchair before changing jobs or losing employment, any new health insurance policy would likely require a new and time-consuming authorization process.

Self-Determination Program

18. The Lanterman Act mandates that "[a]n array of services and supports should be established . . . to meet the needs and choices of each person with developmental disabilities . . . and to support their integration into the mainstream life of the community." (§ 4501.) The purpose of the Lanterman Act is twofold: (1) to prevent or minimize the institutionalization of persons with developmental disabilities and their dislocation from family and community, and (2) to enable persons with developmental disabilities to approximate the pattern of everyday living of nondisabled persons of the same age and to lead more independent and productive lives. (§ 4501.)

19. The Department of Developmental Services (DDS) is the state agency responsible for implementing the Lanterman Act. It contracts with regional centers that are charged with providing developmentally disabled individuals with access to services and supports best suited for them. (§ 4620, subd. (a).)

20. The Legislature added the Self-Determination Program (SDP) to the Lanterman Act "to provide participants and their families, within an individual budget,

increased flexibility and choice, and greater control over decisions, resources, and needed and desired services and supports to implement their IPP [individual participation plan]." (§ 4685.8, subd. (a).) The SDP program is established under the Medicaid Home and Community-Based Services waiver.

21. In the SDP, the consumer directs spending from an "individual budget," representing "the amount of regional center purchase of service funding available to the participant for the purchase of services and supports necessary to implement the IPP." (§ 4685.8, subd. (c)(3).) The SDP consumer directs spending from this individual budget according to an approved "spending plan," which must "identify the cost of each good, service, and support that will be purchased with regional center funds." (§ 4685.8, subd. (c)(7).) An IPP for an SDP participant is subject to the same requirements as for Lanterman Act consumers who do not participate in the SDP. (§ 4685.8, subd. (c)(4).)

LEGAL CONCLUSIONS

1. The Lanterman Act entitles claimant to an administrative fair hearing to review RCEB's decisions. (§ 4710 et seq.) Claimant bears the burden to prove, by a preponderance of the evidence, that she is entitled to the services she seeks. (Evid. Code §§ 115, 500.)

2. If a service or support pursuant to an IPP is paid for, in whole or in part, by an adult consumer's health insurance policy, the regional center "may, when necessary to ensure that the consumer receives the service or support, pay any applicable copayment, coinsurance, or deductible associated with the service or support for which the consumer is responsible if both of the following conditions are

met: (1) The consumer has an annual gross income that does not exceed 400 percent of the federal poverty level[and] (2) There is no other third party having liability for the cost,” consistent with the Legislature’s intent that the regional center shall be the payer of last resort. (§§ 4659.1, subd. (b), 4659.10.)

3. A regional center may, as an exception, pay a health insurance policy copayment, coinsurance, or deductible where the consumer’s income exceeds 400 percent of the federal poverty level. (§ 4659.1, subd. (d).) To meet the exception, the service or support must be necessary to successfully maintain the adult consumer in the least-restrictive setting, and the consumer must demonstrate one or more of the following: (1) “The existence of an extraordinary event that impacts” the consumer’s ability to pay the copayment, coinsurance, or deductible; (2) “The existence of catastrophic loss that temporarily limits” the consumer’s ability to pay, such as natural disasters or accidents involving major injuries to an immediate family member; or (3) “Significant unreimbursed medical costs associated with the care of the consumer” (*Id.*)

4. Concerning payment of a health insurance policy copayment, coinsurance, or deductible by the regional center, the consumer “shall self-certify the family’s gross annual income to the regional center by providing copies of W-2 Wage Earners Statements, payroll stubs, a copy of the prior year’s state income tax return, or other documents and proof of other income.” (§ 4659.1, subd. (e).) A consumer also “is responsible for notifying the regional center when a change in income occurs that would result in a change in eligibility for coverage of the . . . copayments, coinsurance, or deductibles.” (§ 4659.1, subd. (f).)

5. Because claimant would not provide verification of her income to RCEB, RCEB correctly denied her request for RCEB to fund the copayment to replace her

power wheelchair. The plain language of the Lanterman Act, stating that the consumer "shall self-certify" gross annual income by providing documentation, requires claimant to document her income to establish eligibility for RCEB to fund the copayment. (§ 4659.1, subd. (e).) Therefore, claimant, a consumer with income above 400 percent of the federal poverty level, must verify her income for RCEB to fund the health insurance policy copayment to replace her power wheelchair.

6. Upon verification, claimant's income may be considered by RCEB in ascertaining whether (1) an extraordinary event, (2) a catastrophic loss, and/or (3) significant unreimbursed medical costs limit her ability to pay the \$3,000 to \$3,500 health insurance plan copayment. (§ 4659.1, subd. (d).)

ORDER

Claimant's appeal is denied.

Nothing in this decision precludes claimant from renewing her request to RCEB with financial verification.

DATE:

STEPHANIE E. HAFFNER
Administrative Law Judge
Office of Administrative Hearings

BEFORE THE
DEPARTMENT OF DEVELOPMENTAL SERVICES
STATE OF CALIFORNIA

In the Matter of:

Claimant

OAH Case No. 2025040848

Vs.

DECISION BY THE DIRECTOR

Regional Center of East Bay,

Respondent.

ORDER OF DECISION

On June 11, 2025, an Administrative Law Judge (ALJ) at the Office of Administrative Hearings (OAH) issued a Proposed Decision in this matter.

The Department of Developmental Services (Department) takes the following action on the attached Proposed Decision of the ALJ:

The Proposed Decision is adopted by the Department as its Decision in this matter. The Order of Decision, together with the Proposed Decision, constitute the Decision in this matter.

This is the final administrative Decision. Each party is bound by this Decision. Either party may request a reconsideration pursuant to Welfare and Institutions Code section 4713, subdivision (b), 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.

Attached is a fact sheet with information about what to do and expect after you receive this decision, and where to get help.

IT IS SO ORDERED on this day July, 3, 2025.

Original signed by:
PETE CERVINKA
Director