

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

In the Matter of:

CLAIMANT

and

REGIONAL CENTER OF ORANGE COUNTY,

Service Agency.

DDS No. CS0026733

OAH No. 2025050503

DECISION

Chris Ruiz, Administrative Law Judge (ALJ), Office of Administrative Hearings (OAH), State of California, heard this matter by videoconference on June 13, 2025.

Ublester Penaloza, Appeals Manager for Fair Hearings and Mediations, represented Regional Center of Orange County (service agency).

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

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

ISSUE

Shall the service agency be ordered to fund the conversion of claimant's bathtub to a walk-in shower and a higher toilet?

EVIDENCE RELIED ON

In making this Decision, the ALJ relied on service agency's Exhibits 1 through 7, claimant's exhibits A and B, and the witness testimony of Brenda Servin, Jack Stanton, Jenny Tran, Yessenia Nunez, Alma Shakeri, and claimant's mother (mother).

FACTUAL FINDINGS

Jurisdictional Matters

1. The service agency determines eligibility and provides funding for services and supports for people with developmental disabilities under the Lanterman Developmental Disabilities Services Act (Lanterman Act), among other entitlement programs. (Welf. & Inst. Code, § 4500 et seq.) All statutory citations are to the Welfare and Institutions Code (Code) unless otherwise noted.

2. Claimant is a 41-year-old female who is a consumer of the service agency based on the eligible category of cerebral palsy. Claimant has recently been having increasing issues with leg pain. To access the bathtub in her apartment, claimant requires the assistance of her caregiver, and lifting her legs into the bathtub causes her

extreme pain. Therefore, claimant has requested that the service agency fund a remodel of her apartment's bathtub into a walk-in shower.

3. On April 11, 2025, the service agency sent a letter to claimant which denied claimant's request to fund a bathroom remodel in her apartment where she resides. The letter references an Individual Program Plan (IPP) meeting which was held on April 4, 2025. At that meeting, the IPP team emphasized that the bathroom remodel is crucial to improving claimant's quality of life. The service agency authorized a Physical Therapy evaluation to determine whether specialized bathroom equipment can be utilized, or whether additional support options could be utilized. Additionally, the service agency offered to consider changing claimant's level of care. Specifically, the service agency offered to consider providing additional Supported Living Services (SLS) hours, if necessary. Claimant disagreed with the proposed alternatives and requested a Notice of Action so that she could file an appeal.

4. Claimant filed an appeal on May 9, 2025, and requested an administrative hearing.

Other Evidence

5. Claimant resides at an apartment complex. The IPP team considered a written response from the management at claimant's apartment complex regarding claimant's request to remodel her bathroom. The apartment management does not support the remodel. Nevertheless, the apartment management confirmed that claimant is permitted to proceed with the remodel, at her own expense. However, claimant will be required to restore the bathroom to its original state prior to vacating the apartment. Claimant is willing to accept financial responsibility for restoring the

bathroom. However, claimant does not currently have the financial means to cover these costs.

6. The service agency currently funds approximately 575 hours, per month, of SLS services for claimant.

7. Claimant has obtained approved plans and permits for the proposed bathroom remodel. Claimant has not obtained quotes, bids, or other cost estimates regarding the proposed remodel.

8. Claimant could break her current apartment lease without penalty. The service agency contended that the Housing and Urban Development (HUD) voucher, which claimant receives monthly, could be transferred and used at an Americans with Disabilities Act (ADA) accessible apartment. The service agency contended that it would likely be more cost-effective for claimant to move to an ADA accessible apartment, as compared to remodeling the bathroom in her current apartment and then changing it back again when claimant moves out. The service agency has not investigated whether any ADA accessible apartments are available where claimant resides, in the County of Orange. The service agency did not propose this option to claimant prior to the hearing. At hearing, claimant opposed this proposal because she resides close to her mother and because she considers her current apartment as her home.

9. A Physical Therapy Equipment Assessment was performed on June 2, 2025. Claimant's current bathroom was measured to determine if an ADA-compliant walk-in shower, called a "Freedom Shower," would fit. The cost of a Freedom Shower is approximately \$5,000. It was established that an ADA-compliant Freedom Shower will not fit in claimant's current bathroom. Claimant contended that she does not require

an ADA-compliant shower and is willing to accept a non-ADA-compliant walk-in shower. It was not established whether the service agency could legally fund a walk-in shower this is not ADA-compliant.

10. Yessenia Nunez (Nunez) has been claimant's caregiver for seven years. She testified that claimant's condition has worsened over time and that claimant requires Nunez's assistance to use the toilet, to shower, and for almost every task. Because claimant has such a difficult time getting into the bathtub, Nunez occasionally gives claimant a bed-side sponge bath.

11. Alma Shakeri (Shakeri) is the owner of Mission Care, who is the vendor that employs Nunez. Shakeri testified that in October 2024, service agency personnel indicated the service agency would consider funding a remodel of claimant's bathroom. At that meeting, the service agency requested that claimant provide specified medical reports, which claimant provided. In March 2025, the parties continued their discussion regarding the remodel. At that time, the service agency requested that claimant provide a letter from the management for her apartment, which claimant provided. Shakeri testified that the service agency never requested claimant to provide quotes for the remodel. She also testified that the service agency never offered the option of claimant moving to an ADA-compliant apartment.

12. Mother testified that claimant has resided at her current apartment for two years. Mother adopted exhibit B as her testimony. Exhibit B states, in pertinent part:

The requested modification is reasonable and we have not had the opportunity to get quotes to provide Regional Center of Orange County due to the lack turnaround from

Regional Center when discussion started last year approx. October 2024, we are requesting option to get quotes to support the consumer's functional goals in their home. The property management Western national property agreed to allow modification provided as part of exhibit and DRS notes. So Regional Center of Orange County can help to pay for modifications we have discussed.

13. It was established the parties had some type of miscommunication, or a failure to communicate. Claimant apparently believed she was required to obtain the service agency's approval before obtaining quotes regarding the cost and feasibility of converting her bathtub to a walk-in shower. On the other hand, the service agency did not inform claimant, until the day of hearing, of the possibility that claimant could move to an ADA-compliant apartment. Further, the service agency has not determined whether there are any available ADA-compliant apartments available in the County of Orange. The parties were in the process of meeting and discussing the bathroom remodel when claimant became frustrated by the delay. As a result, claimant requested that the service agency issue a Notice of Action letter, which claimant then appealed. Mother's testimony and statement at hearing, as detailed in Factual Finding 12, requested additional time to obtain quotes regarding the potential cost of a remodel. At the same time, claimant is requesting that the ALJ order the service agency to fund a service for which the cost is not yet known.

14. The evidence established the parties did not fully and completely utilize the IPP meeting process.

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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.) In this matter, the service agency issued a “denial letter” at claimant’s request. At that time, the service agency authorized a physical therapy evaluation to determine whether specialized bathroom equipment could be utilized, or if additional support options were appropriate, and whether a remodel of claimant’s bathroom was possible, based on the size of the bathroom. The service agency also offered to evaluate whether additional SLS support was required. The service agency also offered to continue to work with claimant collaboratively through the IPP process, as mandated by Code sections 4646, 4648, and 4646.5.

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. The party asserting a claim or proposing to make changes to the status quo generally has the burden of proof in administrative proceedings. (See, e.g., *Hughes v. Board of Architectural Examiners* (1998) 17 Cal.4th 763, 789, fn. 9.) In this case, claimant is seeking funding for a new service, and therefore claimant has the burden of proof.

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4. Code section 4646.5 defines the content of the planning process for the Individual Program Plan (IPP). It must include a statement of goals based on the consumer's needs and time limited objectives for implementing the goals. The goals and objectives should maximize opportunities for the consumer to develop relationships, be part of community life and to develop competencies to help accomplish the goals. The IPP process must also include a schedule of the type and amount of services and supports to be purchased by the service agency, or obtained from generic agencies or other resources, in order to achieve the IPP goals.

5. Code section 4648 describes what a service agency must do to achieve the stated objectives of the IPP. In securing the needed services and supports for a consumer, a service agency must find services that are flexible and individually tailored to the consumer. By vendorization or contract the service agency may purchase services from any individual or agency the regional center and consumer determine will best accomplish all or any part of the IPP. Code section 4648, subdivision (a)(8), prohibits the use of a service agency funds "to supplant the budget of any agency which has a legal responsibility to serve all members of the general public and is receiving public funds for providing those services." These are commonly referred to as "generic resources." However, subdivision (g) provides that, where there are identified gaps in the system of services and supports, the service agency may provide the services directly.

6. Under Code section 4512, subdivision (b), services provided must be cost-effective and the service agency is required to control costs so far as possible, and to otherwise conserve resources that must be shared by many consumers. (See, e.g., §§ 4640.7(b), 4651(a), 4659, and 4697.) However, Code section 4659 specifies that this statute shall not be construed to impose an additional liability on the parents of

children with developmental disabilities, nor to restrict eligibility for or deny services to, a consumer who is unable to pay. To be sure, the obligations to other consumers are not controlling in the decision-making process, but a fair reading of the law is that a regional center is not required to meet a disabled person's every possible need or desire, in part because it is obligated to meet the needs of many persons. In this matter, the evidence presented did not make it possible to determine "the cost-effectiveness of each option."

7. The cost of claimant moving to an ADA-compliant apartment is unknown. Similarly, the cost to remodel claimant's current apartment bathroom is unknown because no contractor bids have been obtained. Additionally, the service agency offered to consider funding additional SLS hours, which could potentially be used to fund a second caregiver for claimant. A second caregiver could potentially assist Nunez in assisting claimant to more easily enter the bathtub.

8. The evidence presented established there was limited communication between claimant and the service agency. This communication began in October 2024 and concluded in April 2025. The possibility of claimant moving has not been analyzed to determine if there are even available ADA-compliant apartments available in claimant's price range (as determined by her HUD voucher). Additionally, as Mother acknowledged, claimant has not obtained any cost estimates for the desired bathroom remodel. For all the above-stated reasons, claimant did not meet her burden at this time and her appeal must be denied. However, claimant's appeal will be denied without prejudice because the parties' have not yet fully utilized the IPP process to examine all available options, and the cost of each of those options. Once the parties have completed the IPP process in the future, claimant may file another appeal if she is dissatisfied with the service agency's decision.

ORDER

Claimant's appeal is denied without prejudice. Regional Center of Orange County's denial of claimant's request to remodel the bathroom in her apartment is affirmed.

DATE:

CHRIS RUIZ

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.