

BEFORE THE  
OFFICE OF ADMINISTRATIVE  
HEARINGS STATE OF  
CALIFORNIA

In the Matter of:

CLAIMANT,

and

HARBOR REGIONAL  
CENTER

Service Agency.

OAH No: 2018070533

DECISION

David B. Rosenman, Administrative Law Judge, Office of Administrative Hearings, heard this matter in Torrance, California on October 24, 2018. Latrina Fannin, Manager of Rights and Quality Assurance, represented Harbor Regional Center (HRC or service agency). Mother represented Claimant. (Claimant and Mother are not identified by their names to preserve confidentiality.) Mother and witnesses used Spanish language interpretation services, as needed, during the hearing.

Testimonial and documentary evidence was received, and the matter was submitted for decision at the conclusion of the hearing. The hearing was digitally recorded, however there was a system failure that prevented the end of the hearing from being recorded. The parties agreed that (1) Mother could submit two additional exhibits: Exhibit E, 2018 Gamaliel Leadership Training Conference flyer with Mother's notes; and Exhibit F, Mother's written testimony; (2) Exhibit's E and F are received in evidence; and (3) HRC waived any cross-examination of Mother.

The Administrative Law Judge makes the following Factual Findings, Legal Conclusions, and Order granting the Claimant's appeal.

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## ISSUE

Should HRC reimburse Mother for the fee to attend the July 29 through August 4, 2018 Gamaliel Leadership Training Conference?

## FACTUAL FINDINGS

### PARTIES AND JURISDICTION

1. Claimant is a ten-year-old consumer of HRC based on his diagnosis of Intellectual Disability. He resides at home with his mother and a sister, who is also a consumer of services from HRC.

2. At a meeting on May 24, 2018, to develop Claimant's Individual Program Plan (IPP), Mother requested funding to attend the 2018 Gamaliel Leadership Training Conference. The cost of attending is \$700.

3. By letter dated June 24, 2018, HRC denied the request.

4. Mother filed a Fair Hearing Request dated June 29, 2018. This hearing was then scheduled.

### EVIDENCE RELATED TO THE REQUEST FOR FUNDING

5. The flyer for the conference includes information about Gamaliel and the subjects to be included. (Exhibit 5.) Gamliel is identified as "an international organizing institute" "established to train leaders and organizers for the increasingly difficult task of building strong, stable and effective institutionally-based power organizations that can transform congregations and communities."

The topics to be covered in the training are: "Institutional organizing; Using the tools of community organizing to develop strong congregations and other community-based institutions; Methodology for building power; Tools to make and sustain relationships; Self-interest, the public arena medium of exchange; Power analysis: understanding the "laws of the jungle"; Building support with money and media; The elements of good meetings; Elements of a power organization; Structuring personal and organizational time; Strategic planning; Political and economic analysis; Knowledgeable and Experienced Leaders."

Participants are described as including: "clergy and lay leaders, as well as leaders from community organizations, unions and other community based institutions from across the country." (Exhibit 5.)

6. In its letter responding to the request, HRC states two reasons for denial. First, the conference is not specific to the developmental disability population and, "as such, is not contracted with the regional center." (Exhibit 3.) HRC references its general service policy (Exhibit 8), its policy on training (Exhibit 9), and Welfare and Institutions Code section 4646, subdivision (a). The second reason for HRC's denial of the request is HRC's contention that other resources are available and are more cost effective, including assistance from the service coordinator, the HRC Family Resource Center, and outside entities such as TASK and Disability Rights Advocacy.

7. Claimant's IPP noted that Mother does a good job as actively advocating for her children. Further, Mother has accessed several recommended community programs and support groups, such as Unidad Y Fuerza Family Support Group and the Tichenor Support Group for parent training classes, and will consider visiting the HRC Resource Center. Mother and the service coordinator participated in meetings with Claimant's school district to develop his Individual Education Plan (IEP). Mother and the service coordinator met with HRC's special

education attorney to review his IEP and create a letter to the school district with corrections and suggestions for services. Included among the desired outcomes in Claimant's IPP are for him to gain independence in his activities of daily living, to remain in optimal health, to exhibit better behaviors in the home, to maximize his potential in his academic setting, and to play and share appropriately with other children. The IPP also notes that Mother completed the Understanding Behaviors class in 2016, that HRC funds insurance co-payment assistance for applied behavioral analysis services, and that Claimant receives HRC-funded occupational therapy and speech pathology. Mother receives respite services and Claimant also receives funding for In Home Supportive Services. The IPP notes that Mother requested an increase in respite "due to a higher need, including participating in various parent support groups" and for other reasons. (Exhibit 4, p. 10.)

8. Antoinette Perez is HRC's Director of Children's Services and is familiar with Claimant's request. She has not met Claimant but has met Mother. Ms. Perez was aware of the reasons for HRC's denial of the request to pay for attendance at the training and agreed with those reasons. Ms. Perez explained that, based on the training conference flyer, the training is for underserved populations, and it aims to build empowerment and strength for existing organizations and for people trying to start community organizations. It is designed to foster leadership. However, the training does not appear to be specifically related to persons with developmental disabilities. Ms. Perez also testified that other training opportunities mentioned by HRC, such as TASK and Disability Rights, are more directly related to persons with developmental disabilities, and are more cost effective alternatives to Gamaliel.

9. Ms. Perez contacted other regional centers to determine whether they had provided funds for attending Gamaliel training. Among other things she learned that Gamaliel was vendored by the Valley Central Regional Center. In the

documents presented by Mother at the hearing, Exhibit B includes the vendorization request of Gamaliel, which states that it provides bilingual “leadership training events, mentoring, building groups that work together, workshops that help people become more participatory.” The expected consumers are Spanish-speaking families with children or adults with intellectual or developmental disabilities. The service is needed because Gamaliel “is working to increase services to people of color . . . and to assist families to learn how to work effectively with their regional center.” (Exhibit B.)

10. Mother provided five witnesses who are parents of regional center consumers. All five have attended Gamaliel training conferences for which their regional centers have paid. In one instance, payment was by order after a fair hearing. In the other instances the regional centers agreed to pay. In each instance the mother of the consumer testified credibly about the benefits of their attendance. The unifying theme was that they each had previously felt hindered in advocating for their child’s needs with the regional centers, school districts, and in the community, due to fear, intimidation, a power differential, language and cultural differences, and other impediments. Without exception, each mother spoke of the empowerment they gained from the Gamaliel training, including better organizing skills, better understanding of the nature of the organizations with which they were dealing, and better understanding of how to present their positions and negotiate for services and better outcomes.

11. Several of these witnesses, and Mother, are involved in their own organization, Integrated Community Collaborated (ICC), to share information and to support each other in advocating for their children generally, and specifically with regional centers and school districts.

12. Mother paid the \$700 fee and attended the training. In her written statements, Mother described the significance of the subjects she learned at the

Gamaliel training and how the training assisted her in advocating during IEP meetings and generally in the community, including helping to develop an agenda and to identify people and services that can be of help. Mother submitted the flyer from the Gamaliel training she attended (Exhibit E), which was slightly different from the flyer in Exhibit 5. Exhibit E includes a reference to a membership group that is specific to developmental disability services. Exhibit E also includes some notes from Mother describing how certain topics included in the training were helpful to her and her children, such as improving inclusion in life and socializing activities, assisting in developing relationships with the school district and benefits for the IEP process, and better understanding and planning for interactions with doctors.

13. HRC's service policy, General Standards (Exhibit 8), clearly outlines the purpose of services as enabling persons with developmental disabilities to live more independent and productive lives and to promote inclusion by addressing desired outcomes in an IPP. Public resources are to be utilized and cost efficient use of funds is encouraged. A provider of services must be vendored. HRC also has a service policy titled "Family Member Support, Information and Training." (Exhibit 9.) This service policy includes the following definition:

Family member support, information and training are designed to strengthen families in their ability to provide day-to-day care for a family member with a developmental disability, and to assist them in becoming knowledgeable, active participants in planning, coordination, and delivery of services for their family member.

This service policy includes the following section titled "Philosophy":

Harbor Regional Center believes in providing family-centered services. This means that we want to provide early, continued, and culturally-sensitive support, to assist families to maintain a secure and stable family system. We want to provide access to timely, accurate and comprehensive information and training, to give them the tools to promote the development of their family member.

Support, information and training can come from informal sources, such as immediate and extended family members, friends, neighbors, religious organizations, and other parents of children with special needs. It can also come from more formal resources, such as educators, clinicians, service coordinators, and service provider organizations.

The section of this service policy titled "Policy" includes that an IPP may include a desired outcome that addresses the needs of family members as well as needs of the client.

From time to time, such a desired outcome may refer to a family member's need to become more knowledgeable about the client's disability, to meet and network with other parents or children with similar disabilities, or to learn ways to promote the client's development in everyday family life.

The service policy lists ways to achieve such outcomes, including reading books and viewing multimedia materials at the HRC Family Resource Center, accessing information on the internet, attending training offered by HRC, participating in parent support groups, and "Attending conferences or trainings related to the client's developmental disability."

Harbor Regional Center will assist families in accessing the appropriate support, information and training to assist them in becoming more knowledgeable about their family member's disability, and the service delivery system available to provide supports and services.

(Exhibit 9.)

14. Mother presented an additional document titled HRC "Parent Conference Attendance Guidelines" (in Exhibit B), which Ms. Perez testified was "supportive" of the service policies noted above and the guidelines were to be used by service coordinators. These guidelines repeat information from the service policy on training conferences, and they add several details when a parent requests to attend a training conference, including gathering information about the need for, and expected benefit from attendance. The service coordinator is to determine if the conference is vendored and that the registration fee is reasonable "but does not exceed \$275.00." (Exhibit B.)

15. HRC offered alternatives to attending the Gamaliel training. The flyer for TASK (Exhibit 6) lists goals of educating and empowering people with disabilities and their families in such areas as IEP's and special education, assistive technology, transition to adulthood and disability services, and lists services such as telephone support, IEP consultation, youth programs, and workshops. There was no evidence of the cost, if any, for services provided by TASK.

16. Another alternative offered by HRC was Disability Rights Advocacy, and a flyer from Disability Rights California (DRC) is Exhibit 7. Possible services include help to get services from a regional center including representation at a fair hearing, training, and investigation of complaints of denial of rights. To determine if a case will be taken, DRC looks at the merits of the case, the availability of the consumer to advocate for himself, and the availability of DRC and other advocacy resources. There was no evidence of cost, if any, for DRC services. Mother testified that DRC resources are hard to access because DRC does not accept many cases.

## LEGAL CONCLUSIONS

1. The Lanterman Developmental Disability Services Act (Lanterman Act) mandates that an “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 of life in the community.” (Welf. & Inst. Code, § 4501.)<sup>1</sup> Regional centers play a critical role in the coordination and delivery of services and supports for persons with disabilities. (*Id.* at § 4620 et seq.) Regional centers are responsible for taking into account individual consumer needs and preferences, and for ensuring cost effectiveness for the services and supports provided to consumers. (*Id.* at §§ 4646, 4646.5, 4647, and 4648.) To provide uniformity and consistency, regional centers are mandated to develop best practices for use when purchasing services and supports for consumers and families. (*Id.* at § 4620.3, subd. (a).)

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<sup>1</sup> All references to statutes are to the Welfare and Institutions Code except as otherwise noted.

2. The services and supports to be funded for a consumer are determined through the individualized program planning process, which involves collaboration with the consumer and service agency representatives. The planning process includes gathering information and conducting assessments. (*Id.* at § 4646.5, subd. (a).)

3. Services and supports for persons with developmental disabilities are defined as “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.” (*Id.* at § 4512, subd. (b).) Services and supports include “advocacy assistance, including self-advocacy training, facilitation, and peer advocates,” “community integration services,” as well as “social skills training.” (*Id.*)

4. As the party seeking funding for Lanterman Act services or supports, Claimant bears the burden of establishing entitlement to those services or supports by the preponderance of the evidence. (Evid. Code, § 500.)<sup>2</sup> Claimant has met his burden.

5. In support of its denial of the request to fund attendance at the conference, HRC refers to Code section 4646, which addresses the purpose of an IPP and its development. Specifically, subdivision (a) states:

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<sup>2</sup> Evidence Code section 500 provides that “a party has the burden of proof as to each fact the existence or nonexistence of which is essential to the claim for relief or defense that he is asserting.”

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.

6. The service agency's contention that the Gamaliel conference does not offer disability-related services is rejected. Gamaliel is a vendor for the Valley Mountain Regional Center. The process of becoming a vendor is the subject of statutes and regulations. As relevant here, Code section 4648, subdivision (a)(3), provides that a regional center may purchase services and supports "pursuant to vendorization or a contract. . . ." "Vendorization or contracting" is defined as "the process for identification, selection, and utilization of service vendors or contractors, based on the qualifications and other requirements necessary in order to provide the service." (Code, § 4648, subd. (a)(3)(A).)<sup>3</sup> There was no evidence of

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<sup>3</sup> A "service provider" is defined in the regulations as a person, program, or entity "vendored to provide services to regional center consumers." (Cal. Code

the particular service code assigned to Gamaliel as a vendor; however, to become a vendor for its training conference, it would necessarily have been determined that Gamaliel was providing a service that would be beneficial for, and made available to, regional center consumers and their families.

7. Mother's statements and documents, and the testimony from the witnesses who attended Gamaliel training conferences, establish that the training directly addresses the stated goals of the Lanterman Act to support integration into the mainstream of life in the community, to alleviate a developmental disability, to provide supports 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. Similarly, several goals listed in HRC's service policy on Family Member Support, Information and Training are directly supported by the training conference and Mother's attendance. The fact that Mother's attendance at the conference may also further her aspirations of becoming a leader of a community organization advocating for and assisting developmentally disabled individuals and their families is irrelevant.

8. Mother's intention and desire to access programs, training conferences and community support groups is well-documented in the IPP. That there is no specifically designated "outcome" for that participation in the IPP would

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Regs., tit. 17, § 50602, subd. (o).) A "vendor" is defined in the regulations as "an applicant which has been given a vendor identification number and has completed the vendorization process." (Cal. Code Regs., tit. 17, § 54302, subd. (a)(74).) The regulations further provide, "The vendoring regional center shall assign a service code to the vendor based upon the program design and/or the services provided." (Cal. Code Regs., tit. 17, § 54340, subd. (c).)

elevate form over substance. Mother participated in groups and trainings suggested or offered by HRC and sought assistance from the service coordinator and special education attorney to prepare for and participate in the IEP process with her school district. Nevertheless, Mother presented convincing evidence that the benefits obtained from attending the Gamaliel training conference included other skills and capabilities that she applied to interactions with HRC, the school district and generally in the community to advocate for her children.

9. It was not established that the services available from TASK or DRC would provide either adequate or cost effective alternatives to attending the Gamaliel training. Therefore, HRC had an inadequate basis to deny Mother's request for those reasons.

10. The HRC conference guidelines instruct the service coordinator to determine whether the training was being given by a vendor. It does not appear that this occurred when Mother made her request. Although the same guidelines instruct the service coordinator to "ensure" that the conference registration fee is reasonable but does not exceed \$275, this is not an express limit and it goes beyond the HRC service policies noted above, which do not impose any limit on a conference registration fee.

11. Mother presented a preponderance of evidence to support her request for HRC to fund her attendance at the Gamaliel training conference. By reason of Factual Findings 1 through 16 and Legal Conclusions 1 through 10, cause exists to grant Claimant's appeal.

## ORDER

Claimant's appeal is granted. Harbor Regional Center shall retroactively fund the cost of Claimant's mother's attendance at the July 29 through August 4, 2018 Gamaliel Leadership Training Conference in the amount of \$700.

DATED:

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DAVID B. ROSENMAN

Administrative Law Judge

Office of Administrative Hearings

## NOTICE

This is a final administrative decision. This decision binds both parties. Either party may appeal this decision to a court of competent jurisdiction within 90 days.