

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

**In the Matter of:**

**CLAIMANT**

**v.**

**VALLEY MOUNTAIN REGIONAL CENTER**

**OAH No. 2019120225**

**DECISION**

Wim van Rooyen, Administrative Law Judge, Office of Administrative Hearings (OAH), State of California, conducted a fair hearing on January 13, 2020, in Stockton, California.

Matthew Bahr, Attorney at Law, represented Valley Mountain Regional Center (VMRC).

Claimant's mother and authorized representative (Mother), represented Claimant with the assistance of Gina Montanez, a qualified Spanish interpreter.

Evidence was received, the record closed, and the matter submitted for decision on January 13, 2020.

## **ISSUE**

Is VMRC required to reimburse Claimant for Mother's registration fee to attend a Self-Determination Program (SDP) conference held from November 15 through 16, 2019, in Los Angeles, California?

## **FACTUAL FINDINGS**

### **VMRC's Evidence**

1. Claimant was born in 2012 and deemed eligible for services under the Lanterman Act based on a diagnosis of Autism Spectrum Disorder. Currently, Claimant is seven years old and lives at home with his mother and sister in Lathrop, California.

2. On August 1, 2019, and September 5, 2019, Mother, VMRC Service Coordinator (SC) Alexzander Ponce, and VMRC Program Manager Danielle Wells met to prepare Claimant's annual Individual Program Plan (IPP). The IPP, agreed to and signed by all parties, identified 20 objectives, with specific plans and services listed under each objective. One of the objectives was "Self-Determination"; "[w]ith assistance, [Claimant] will explore self-directed services." In support of that objective, the IPP listed the following plans: "SC will inform parent when self-directed services become available" and "SC will monitor this objective."

3. The SDP provides consumers and their families with more freedom, control, and responsibility in choosing services and supports to help them meet objectives in their IPP. On October 1, 2018, the Department of Developmental Services (DDS) selected an initial 2,500 participants for the SDP. After June 7, 2021, the SDP will be available to all eligible consumers.

4. Claimant is on the DDS's list of people interested in being part of the SDP. However, he was not selected as one of the initial 2,500 participants and is not presently enrolled in the SDP.

5. In 2019, VMRC provided at least six free, local SDP training sessions open to anyone, with Spanish translation provided. VMRC also has flow charts outlining the SDP, as well as training videos, posted on its website in English and Spanish. Additionally, VMRC has scheduled an additional six free, local SDP training sessions open to anyone, with Spanish translation provided, for the first quarter of 2020.

6. On November 5, 2019, Claimant requested VMRC to fund Mother's \$250 registration fee to attend a November 15 through 16, 2019 conference in Los Angeles presented by Disability Voices United (DVU) and the Autism Society Los Angeles (ASLA) titled "Taking Charge: Making Self-Determination Work for Us" (LA Conference). On November 14, 2019, VMRC issued a Notice of Proposed Action (Notice), effective December 19, 2019, denying Claimant's request to fund Mother's registration fee for the LA conference. The Notice explained that:

The determination of which services and supports are necessary for each consumer shall be made through the individual program plan process. The determination shall be made on the basis of the needs of and preferences of the consumer, or when appropriate, the consumer's family, and shall include . . . the cost-effectiveness of each option.

7. On November 21, 2019, Mother, on behalf of Claimant, filed a Fair Hearing request. Consequently, the matter was set for a fair hearing before an

Administrative Law Judge of the OAH, an independent adjudicative agency of the State of California.

## **Claimant's Evidence**

8. Mother, who only speaks Spanish, testified at hearing. She registered for the LA Conference on November 5, 2019, and attended both days of the conference. She does not regret attending the conference, because it provided comprehensive information and practical demonstrations concerning the SDP not available in the local San Joaquin County area. Although Claimant is not presently enrolled in the SDP, it is important for Mother to educate herself about the SDP so that she can be ready to make the transition once Claimant is enrolled.

9. DVU "covered the fee" for Mother's LA Conference registration. Mother believes that she has a moral obligation to repay DVU and that VMRC should issue reimbursement to DVU directly. However, she has not received any bills or communications from DVU requesting reimbursement of the \$250 fee.

10. Mother only knew about two or three past SDP trainings offered by VMRC, because her SC did not notify her about such trainings, and notices about trainings were not always provided in a timely fashion or in Spanish. Additionally, the VMRC trainings she attended did not provide proper Spanish translation and were not as comprehensive as the LA Conference. Finally, she only recently started learning how to use the SDP materials available on VMRC's website, which she finds difficult to navigate. Mother believes there is a significant disparity in the services provided to Hispanic compared to non-Hispanic consumers of regional centers, including VMRC.

11. DC, a retired school principal and grandparent of another consumer at VMRC, and EG, a parent of a consumer at a different regional center, both attended

the LA Conference and testified at hearing. Consistent with Mother's testimony, both witnesses confirmed the unique benefits of attending the LA conference and the above-mentioned deficiencies of local SDP trainings.

12. Judy Mark, President of DVU, testified at hearing. She planned and coordinated the LA Conference, which was attended by regional center consumers, family members, service providers, disability advocates, and regional center staff from across California, including staff from VMRC. VMRC Executive Director Tony Anderson attended and was a presenter at the conference. The LA Conference covered numerous topics involving the SDP, including creating an individual budget and spending plan, hiring and managing workers and service providers, and the use of independent facilitators and financial management services representatives. VMRC was the only regional center which refused to pay the registration fees of their consumers and family members who attended the LA Conference.

## **Discussion**

13. The Lanterman Act requires regional centers to fund certain services and supports to persons with developmental disabilities. However, Claimant failed to demonstrate that Mother even paid the LA Conference registration fee. Mother admitted that a third party (DVU) paid the fee and has produced no evidence that she is personally and legally responsible for repaying DVU. Thus, denial of funding is appropriate on that basis alone.

Even if Mother had paid the LA Conference registration fee, denial would also be appropriate given that travel to out-of-town conferences is not a service agreed upon and included in Claimant's IPP. Although the LA Conference was undisputedly a valuable and comprehensive educational opportunity, it was also not the most cost

effective option, because VMRC offered, and continues to offer, several free, local SDP training sessions, open to anyone. Mother's testimony regarding insufficient notice of, and lack of proper Spanish translation at, such local VMRC trainings is troubling, and VMRC may wish to consider the adequacy of its notification procedures and translation services for its future SDP trainings. However, Claimant is not presently enrolled in the SDP. Even though Mother understandably wants to educate herself about the SDP, it is not a program Claimant currently utilizes. Thus, under the circumstances of this case, any deficiencies concerning VMRC's local SDP trainings are not sufficient by themselves to compel VMRC to fund Mother's LA Conference registration fee.

Finally, the decision of other regional centers to fund the registration fees of their consumers and family members is not binding on VMRC. Even if some of VMRC's staff attended the LA Conference at VMRC's expense, such funding for staff education and development is not subject to the Lanterman Act, and has no legal bearing on a decision not to fund the attendance of a consumer or family member.

In sum, the Lanterman Act does not require VMRC to fund Mother's registration fee to attend the LA conference. Consequently, Claimant's request for such funding was properly denied.

## LEGAL CONCLUSIONS

1. The Lanterman Act provides for services and supports for persons with developmental disabilities. (Welf. & Inst. Code, § 4501.)<sup>1</sup> "The determination of which services and supports are necessary for each consumer shall be made through the individual program plan [IPP] process. The determination shall be 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." (§ 4512, subd (b).) "Individual program plans shall be prepared jointly by the planning team. Decisions concerning the consumer's goals, objectives, and services and supports that will be included in the consumer's individual program plan and purchased by the regional center or obtained from generic agencies shall be made by agreement between the regional center representative and the consumer or, where appropriate, the parents, legal guardian, conservator, or authorized representative at the program plan meeting." (§ 4646, subd (d).)

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.) Here, Claimant has the burden of proof, because he seeks funding for a service that VMRC has not agreed to provide.

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<sup>1</sup> All further statutory references are to the Welfare and Institutions Code, unless otherwise noted.

3. Based on the Factual Findings as a whole, and specifically Factual Finding 13, Claimant has not established that the Lanterman Act requires VMRC to fund Mother's registration fee to attend the LA conference. Thus, Claimant's request for funding was properly denied.

### **ORDER**

Claimant's appeal is DENIED. Valley Mountain Regional Center's decision to deny Claimant's request to fund Mother's registration fee to attend the LA Conference is AFFIRMED.

DATE: January 23, 2020

WIM VAN ROOYEN  
Administrative Law Judge  
Office of Administrative Hearings

### **NOTICE**

This is the final administrative decision; both parties are bound by this decision. Either party may appeal this decision to a court of competent jurisdiction within 90 days.