

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

**In the Matter of:**

**CLAIMANT,**

**vs.**

**FRANK D. LANTERMAN REGIONAL CENTER,**

**Service Agency.**

**OAH Nos. 2021080575 & 2021080577**

**DECISION**

Glynda B. Gomez, Administrative Law Judge (ALJ), Office of Administrative Hearings (OAH), State of California, heard this matter on October 27, 2021, by video conference. Claimant and his mother participated by telephone.

Jessica Franey, Attorney, Waterson, Huth & Associates, represented the Frank D. Lanterman Regional Center (Service Agency).

Claimant's Mother, authorized representative, represented Claimant.<sup>1</sup>

Testimony and documentary evidence was received. At the conclusion of the hearing, the record remained open until October 28, 2021, for the Claimant to file a complete copy of a psychological report. Claimant filed the report which was marked and admitted as Exhibit I, without objection.

The record was closed, and the matter submitted on October 28, 2021.

## **SUMMARY**

Claimant seeks funding from the Service Agency for a psychological assessment including brain scans and treatment by the Amen Clinic and 6 months of psychotherapy with Siri Sat Nam Singh, Ph.D, LMFT (Dr. Singh). The Service Agency contends that Claimant has already had a psychological examination, was made eligible for Lanterman Act services, and additional diagnostics are not necessary. Additionally, the Service Agency contends that the Amen Clinic services are not evidence-based for the diagnosis and treatment of Claimant's developmental disability and generic resources are available for Claimant's medical and psychological needs including psychotherapy. For the reasons set forth below, Claimant's appeals are denied.

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<sup>1</sup> The names of the Claimant and family members are withheld to protect their privacy.

## **FACTUAL FINDINGS**

1. Claimant is an 18 year-old young man who is eligible for regional center services based on his diagnosis of Autism at the age of 13 years old.<sup>2</sup> He was also diagnosed with Attention-Deficit Hyperactivity Disorder (ADHD) when he was 7 years old and suffered a concussion and head injury three years ago in a skate boarding accident. Claimant has struggles with migraine headaches, depression and anger. He also has a family history of schizophrenia. Claimant is an articulate person who struggles with daily living skills, social skills and behavior. Claimant lives with his mother. He was home-schooled through a charter school program and received his high school diploma. Claimant is currently enrolled in his local community college and hopes to attend a four year college.

### **Siri Sat Nam Singh**

2. Claimant's symptoms and feelings of isolation have worsened during the Covid-19 pandemic and he is desperate for help. Claimant tried medication for a few days, but refused to continue. He believes that Dr. Singh is the only one who can help him. Claimant has been in therapy since he was approximately 8 years old. Claimant has never felt that he was helped by therapy. Claimant researched therapists online himself and came across Siri Sat Nam Singh, Ph.D, LMFT. (Dr. Singh.) Dr. Singh has a number of famous clients and an internet following. Claimant had three counseling sessions with Dr. Singh and believes that he made mental health breakthroughs in therapy with Dr. Singh. Claimant was passionate about Dr. Singh's therapy methods. Claimant would like to continue therapy with Dr. Singh, but his family cannot afford

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<sup>2</sup> Claimant was originally diagnosed by Children's Hospital physicians.

the \$300 per session fee. Claimant is currently attending therapy sessions at Wilshire Valley Therapy paid by his Medi-Cal insurance. He has not had a consistent therapist during his time with Wilshire Valley Therapy and thus far, has not found the therapy useful.

3. Claimant requested that the Service Agency fund Dr. Singh's therapy sessions for six months at a rate of \$300 per session. On July 15, 2021, the Service Agency denied the request citing its purchase of service policy, the mandate to use generic resources when possible and its role as the payer of last resort.

4. The Service Agency has offered Claimant Crisis Intervention Services, and offered to fund a vendor therapist while he waited for the Medi-Cal therapist to be available. Claimant was not amenable to either offer. Dr. Singh wrote a letter dated June 30, 2021 as follows:

This is to certify that [Claimant] has been present in three individual psychotherapy sessions (June 28, 2021, June 29, 2021 and June 30, 2021). During this time, [Claimant] has processed distressing situations which have contributed to the evolution of a dark Psyche. His progress is, assuredly, a result of his open sharing and heartfelt dedication to eroding the deleterious impact of past life experiences. Even still, this young man should, by no means, discontinue weekly individual psychotherapy. He is still at risk. The fee for each individual session was \$300. The total fee of \$900 has been paid in full.

(Ex. D.)

## **The Amen Clinic**

5. On September 2, 2021, Claimant requested that the Service Agency fund a full assessment with brain SPECHT studies and 10 treatment sessions at a cost of \$4,495. The Amen Clinic uses brain SPECT (Single Photon Emission Computed Tomography) scans. The SPECTs are brain mapping tools that evaluate “blood flow and activity in the brain.” These brain imaging studies identify patterns of brain activity that are common with certain types of diagnoses, such as ADHD and Autism. After the imaging study, the Amen Clinic designs a treatment plan based upon the results of the SPECT studies and provides medication, if necessary.

6. In an undated letter, Max Shaft, Associate Marriage and Family Therapist (operating under the Supervision of Dr. Katrina Wood), wrote a letter on Claimant’s behalf as follows:

I have been treating patient [Claimant] for 5 weeks.

He has been part of the IEP program in [local] school district since the age of 7 years. He is aware of his disabilities and suffers from a diagnosis of ADD and Depression.

His mother is requesting that he receive a comprehensive evaluation at the Clinic in Los Angeles which would include a brain scan and related treatment.

[Claimant] is aware of his disability and that this contributes to his depression.

Thorough evaluation in this area would facilitate the development [of] a treatment plan to help him address his depression and symptoms with a pro-active outlook and address any underlying conditions which may exist.

(Ex. E.)

7. Dr. Leslie Richard, M.D., prepared a written opinion and gave credible testimony at hearing about SPECT scans. In relevant part, in a letter dated October 20, 2021, Dr. Richard wrote:

Regarding the use of SPECT scans to evaluate, diagnose, and treat psychiatric and/or neurodevelopmental conditions:

Although SPECT scans of the brain have many clinical uses in the field of medicine, SPECT scans are not currently considered part of medically evidence-based method(s) for evaluating or treating conditions such as autism spectrum disorder, mental health conditions, or learning disabilities. While differences in brain structure and function of these conditions have been noted in research settings, the extrapolation to their clinical use and efficacy in diagnostic or treatment decisions has not yet been established.

Much of the research in this regard is promising, but is considered experimental at this juncture, and is not considered standard or best practice from a medical perspective. This is especially true in terms of guiding

treatment in terms of types of psychotherapy or psychotropic medication. As the field of 'precision medicine' becomes more developed and researched, best-practice for psychiatry and neurodevelopmental disorders will hopefully follow suit, but the data has not proven to be substantial enough to consider utilizing SPECT scans to evaluate, diagnose and treat these conditions at this time.

(Ex. 15.)

8. According to Dr. Richard, the SPECT scan technology is promising, but is not yet evidence-based and will require additional research. With respect to Claimant's request, Dr. Richard opined that since Claimant has already qualified for regional center services based upon a regional center psychological assessment and a medical diagnosis, and the SPECT studies are used for diagnosis, such studies would not be necessary to evaluate, diagnose or treat Claimant's developmental disability.

### **The Most Recent Signed IPP**

9. The March 26, 2020 Triennial Individual Program Plan, lists five desired outcomes as follows:

- Outcome #1: [Claimant] will continue to live with his mother.
- Outcome #2: [Claimant] will participate independently in typical activities of daily life such as participating at meals, getting ready for daytime activities, completing his personal care activities independently with no reminders, and going to bed.

- Outcome #3: [Claimant] will have an appropriate Individual Education Program (IEP) with designated instructional services to make progress in cognitive growth, communication skills and social development.
- Outcome #4: [Claimant] will engage in a variety of activities and outings with others at home and in the community.
- Outcome #5: [Claimant] will remain in stable physical, emotional, and mental health.

10. According to the IPP, Claimant receives In Home Support Services (IHSS) hours, Supplemental Security Income (SSI), Medi-Cal, 30 hours per month of respite and equine therapy. Additionally, the Service Agency has agreed to provide funding for Martial Arts training as an outlet for Claimant's anxiety. All identified needs are addressed in the IPP.

## **LEGAL CONCLUSIONS**

1. The Lanterman Act governs this case. (Welfare and Institutions Code (Code), § 4500 et seq.)<sup>3</sup> An administrative "fair hearing" to determine the respective rights and obligations of the consumer and the regional center is available under the Lanterman Act. (Code §§ 4700-4716.)

2. Because Claimant seeks benefits or services, Claimant bears the burden of proving he is entitled to the services requested. (See, e.g., *Hughes v. Board of Architectural Examiners* (1998) 17 Cal.4th 763, 789, fn. 9; *Lindsay v. San Diego*

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<sup>3</sup> Further statutory references are to the Welfare and Institutions Code.



*Retirement Bd.* (1964) 231 Cal.App.2d 156, 161.) Claimant must prove his cases by a preponderance of the evidence. (Evid. Code, § 115.) Claimant did not meet his burden of proof.

## **The Lanterman Act**

3. The Lanterman Act acknowledges the state's responsibility to provide services and supports for developmentally disabled individuals and their families. (Code § 4501.) The state agency charged with implementing the Lanterman Act, the Department of Developmental Services (DDS), is authorized to contract with regional centers to provide developmentally disabled individuals with access to the services and supports best suited to them throughout their lifetime. (Code § 4520.)

4. Regional centers are responsible for conducting a planning process that results in an Individual Program Plan (IPP). Among other things, the IPP must set forth goals and objectives for the client, contain provisions for the acquisition of services based upon the client's developmental needs and the effectiveness of the services selected to assist the consumer in achieving the agreed-upon goals, contain a statement of time-limited objectives for improving the client's situation, and reflect the client's particular desires and preferences. (Code §§ 4646, subd. (a)(1), (2), and (4), 4646.5, subd. (a), 4512, subd. (b), 4648, subd. (a)(6)(E).)

5. The individual program plan is developed through a process of individualized needs determination. The individual with developmental disabilities and, when appropriate, the individual's parents, legal guardian or conservator, or authorized representative, shall have the opportunity to actively participate in the development of the plan. (Code § 4646, subd. (b).)

6. Code section 4646.4, subdivision (a), provides: Regional centers shall ensure, at the time of development, scheduled review, or modification of a consumer's IPP developed pursuant to Sections 4646 and 4646.5, or of an individualized family service plan pursuant to Section 95020 of the Government Code, the establishment of an internal process. This internal process shall ensure adherence with federal and state law and regulation, and when purchasing services and supports, shall ensure all of the following: (1) Conformance with the regional center's purchase of service policies, as approved by the department pursuant to subdivision (d) of Section 4434; (2) Utilization of generic services and supports when appropriate; (3) Utilization of other services and sources of funding as contained in Section 4659.

7. Although regional centers are mandated to provide a wide range of services to facilitate implementation of the IPP, they must do so in a cost-effective manner. (Code §§ 4640.7, subd. (b), 4646, subd. (a).) A regional center is not required to provide all the services that a client may require but is required to "find innovative and economical methods of achieving the objectives" of the IPP. (Code § 4651.) Regional centers are specifically directed not to fund duplicate services that are available through another publicly funded agency or "generic resource."

8. Code section 4659, subdivision (a) states "Except as otherwise provided in subdivision (b) or (c), the regional center shall identify and pursue all possible sources of funding for consumers receiving regional center services. Also, Code section 4648, subdivision (a)(8) states: "Regional center funds shall not be used to supplant the budget of any agency that has a legal responsibility to serve all members of the general public and is receiving public funds for providing those services." Code section 4648, subdivision (a)(16), provides that "regional centers shall not purchase experimental treatments, therapeutic services, or devices that have not been clinically

determined or scientifically proven to be effective or safe or for which risks and complications are unknown. Experimental treatments or therapeutic services include experimental medical or nutritional therapy when the use of the product for that purpose is not a general physician practice.”

9. If a service specified in a client’s IPP is not provided by a generic agency, the regional center must fund the service to meet the goals set forth in the IPP. (Code § 4648, subd. (a)(1); see also, e.g., § 4659.)

10. Regional Centers are also required to rely on their Purchase of Service Guidelines, as approved by the department pursuant to Code Section 4434, subdivision (d). (Code, §4646.4, subd. (a) (1).) The pertinent guidelines require the family to provide medical care through private insurance and other sources of funding with exceptions made when four criteria are met: the equipment is associated with a developmental disability; it is medically necessary; the regional center consultants have approved the treatment; and the individual cannot access insurance, and the regional center has determined the appeal of any denial is unwarranted.

## **Disposition**

11. Although Claimant’s desire for a specific therapist is important and the value of Claimant’s comfort with Dr. Singh is tremendous, the Service agency is not required to fund Claimant’s therapist of choice. Generic resources in the form of Medi-Cal insurance are available to provide Claimant with therapy and Service agency has offered to provide crisis intervention services to supplement the therapy. The Service agency is the payor of last resort and may not provide funding for services that are available through generic resources such as Medi-Cal.

12. The Amen Clinic provides an assessment and diagnoses, using SPECT studies, and treatment including medication, based upon the analysis of the assessment. Claimant was assessed by a Service Agency when he was 13 years old, at which time he was determined to be eligible for regional center services pursuant to his diagnosis of Autism. Claimant's IPP provides the services, supports, and desired outcomes that were agreed upon by the Claimant and the Service Agency to ameliorate his developmental disability and addresses all identified needs. Claimant's Medi-Cal insurance is available for his medical needs including appropriate testing, medical and psychological treatment as a generic resource. The Service Agency may not fund services that are available through generic resources. Additionally, the evidence presented did not establish that the services sought by Claimant were evidence based and are therefore not services that may be funded by the Service Agency. Claimant is encouraged to discuss his desire for further diagnostic procedures with his medical provider and to explore the therapy available to him through his Medi-Cal insurance and to utilize the Crisis Intervention services offered by the Service Agency.

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## **ORDER**

1. The Service Agency's denial of Claimant's request for funding of therapy with Dr. Sat Nam Singh is sustained. The Service Agency is not required to fund the therapy.

2. The Service Agency's denial of Claimant's request for funding of an assessment and treatment by the Amen Clinic is sustained. The Service Agency is not required to fund the assessment or treatment.

DATE:

GLYNDA B. GOMEZ

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.