

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

In the Matter of:

OAH NO. 2011100056

ELIZABETH A.,

Claimant,

vs.

CENTRAL VALLEY REGIONAL CENTER,

Service Agency.

DECISION

Administrative Law Judge Humberto Flores, Office of Administrative Hearings, heard this matter in Fresno, California, on April 26, 2012.

Shelley Celaya, Client Appeals Specialist, represented the Central Valley Regional Center (regional center). Elizabeth A. (claimant) was represented by her parents.

Evidence was received at the hearing and the matter was submitted for decision on April 26, 2012.

ISSUE

Is the regional center required to provide funding for claimant to attend the Wayfinders Program, an independent living and adult transitional program at California State University, Fresno?

FACTUAL FINDINGS

1. Claimant is a 19-year-old woman whose qualifying condition is mental retardation.

2. Claimant completed her high school education in June 2011. She received a Certificate of Completion from Bullard High School, which is part of the Fresno Unified School District.

3. In February 2011, claimant's parents asked claimant's case manager (Victor Salazar) for a referral for claimant to attend the Wayfinders Program.¹ Mr. Salazar completed the referral on February 24, 2011. Thereafter, claimant applied for and was accepted into the Wayfinders Program. She started in the fall of 2011.

4. Claimant's parents spent months preparing claimant to enter the Wayfinders Program. When claimant's parents were informed of the cost of the program, which is in excess of \$5,000 per month, they requested funding from the regional center.

5. On October 20, 2011, the regional center notified claimant of its decision to deny claimant's request for funding for the Wayfinders Program. The regional center based its decision on Welfare and Institutions Code sections 4512, 4646, subdivision (a), 4648, subdivisions (a)(2) and (a)(8), and 4648.55. The notice of denial stated in relevant part that "the school district is obligated to provide adult transition services until claimant is 22 years old."

6. Claimant filed a Request for Fair Hearing.

7. Despite being notified by the regional center that it denied claimant's request for funding, claimant's parents decided to enroll claimant in the Wayfinders Program. Claimant's parents testified that the program has been extremely beneficial for claimant and that they would be willing to share the cost of the program if the regional center would provide funding.

8. The most recent Individual Program Plan (IPP) meeting for claimant was held on June 13, 2011. The IPP, which was signed by all participants in the IPP meeting, states that claimant's educational service is an established, ongoing service that is "funded by the Fresno Unified School District . . . and will continue until reviewed at the next Planning Conference."

¹ The Wayfinders Program is a highly regarded adult transition program (ATP) designed to prepare intellectually disabled students for adult transition into an environment of their choosing where they will live with minimal supports. It is a residential program providing services at the main campus of California State University, Fresno. The curriculum consists of six domain areas including: (1) Leadership; (2) University Inclusion; (3) Academic Life Skills; (4) Career Development; (5) Academic Lab School; and (6) Campus/Community Pathways. The curriculum is designed to prepare students to achieve employment and/or independent living goals.

9. The regional center provides funding for adult transitional programs for adults who are 22 years of age or older. Prior to age 22, this type of service is funded by the local school district.

10. Claimant continues to be eligible to receive certain services from the Fresno Unified School District pursuant to her Individualized Education Program (IEP). The most recent IEP is dated October 5, 2011. Claimant's father participated in the IEP conference. The IEP indicated that the district offered to place claimant in its adult transition program. However, claimant's father declined the district's offer because claimant's parents believe that claimant would be better served by her participation in the Wayfinders Program.

LEGAL CONCLUSIONS

1. In 1977, the California Legislature enacted the Lanterman Developmental Disabilities Services Act (the Lanterman Act) "to prevent or minimize the institutionalization of developmentally disabled persons and their dislocation from family and community . . . and to enable them to approximate the pattern of everyday living of nondisabled persons of the same age and to lead more independent and productive lives in the community." (See, *Association for Retarded Citizens v. Department of Developmental Services* (1985) 38 Cal.3d 384, 388.). Under the Lanterman Act, the "State of California accepts a responsibility for persons with developmental disabilities and an obligation to them which it must discharge" (Welf. & Inst. Code, § 4501).

2. In order to determine how the individual consumer shall be served, regional centers are directed to conduct a planning process that results in an Individual Program Plan (IPP). This plan is established after an IPP conference. Participants in the conference include the consumer and/or the consumer's representative, regional center representatives, and other appropriate participants. Pursuant to Welfare and Institutions Code section 4648, subdivision (a)(3), a regional center may purchase services to accomplish all or any part of the IPP goals.

3. A particular IPP notwithstanding, there are certain restrictions regarding the direct purchase of services by a regional center. For example, regional centers are directed to pursue all possible sources of funding for a consumer receiving regional center services (Welf. & Inst. Code, § 4659, subd. (a)). Further, regional centers are specifically charged to provide services in the "most cost effective and beneficial manner" (Welf. & Inst. Code, § 4685, subd. (c)(3)). A duplication of a service available elsewhere to a consumer is not a cost effective use of public funds. In addition, regional centers are prohibited from supplanting the budget of any agency that has a legal responsibility to serve the general public and that receives public funds to provide those services (Welf. & Inst. Code, § 4648, subd. (a)(8)). Accordingly, regional centers may not purchase services to implement an IPP if those services are available elsewhere and are funded by another agency.

4. Services available through other agencies are commonly referred to as “generic resources.” In claimant’s case, the Fresno Unified School District is the generic resource responsible for providing for her educational needs until she is 22 years old. Even if the Wayfinders Program is the best adult transitional program for claimant, the regional center cannot legally provide funding for this program until she attains the age of 22 (Welf. & Inst. Code, § 4648.55, subd. (a)). To do so would supplant the budget of a generic resource in violation of the Lanterman Act. Therefore, cause exists to affirm the decision of the regional center denying claimant’s request for funding. It is noted, however, that a school district may contract with regional center vendors to meet the educational needs of a consumer (Welf. & Inst. Code, § 4648.55, subd. (e)).

ORDER

The decision of the Central Valley Regional Center to deny funding for claimant to attend the Wayfinders Program at California State University, Fresno, is affirmed. Claimant’s appeal is denied.

DATED: May 2, 2012

HUMBERTO FLORES
Administrative Law Judge
Office of Administrative Hearings

NOTICE

This is the final administrative decision in this matter. Each party is bound by this decision. An appeal from the decision must be made to a court of competent jurisdiction within 90 days of receipt of the decision. (Welf. & Inst. Code, § 4712.5, subd. (a).)