

BEFORE THE  
OFFICE OF ADMINISTRATIVE HEARINGS  
STATE OF CALIFORNIA

In the Matter of:

P.G.,

Claimant,

v.

WESTSIDE REGIONAL CENTER,

Service Agency.

OAH Case No. 2013071199

**DECISION**

Daniel Juárez, Administrative Law Judge, Office of Administrative Hearings, heard this matter on August 23, 2013, in Culver City, California.

Claimant was represented by his father.<sup>1</sup>

Lisa Basiri, Fair Hearing Coordinator, represented the Westside Regional Center (Service Agency).

The parties submitted the matter for decision on August 23, 2013.

STATEMENT OF THE CASE

Claimant wants the Service Agency to fund his father as his personal assistant. The Service Agency agrees to fund Claimant's personal assistance, but argues that it is inappropriate to fund Claimant's father.

FACTUAL FINDINGS

1. Claimant, a 29-year-old male, requested that the Service Agency fund 30 hours per month of personal assistance (P.A.). Claimant wishes to use the P.A. hours to support his weekend community activities. Claimant's father argued that he should be the paid provider of Claimant's P.A. service.

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<sup>1</sup> Initials and familial title are used to identify Claimant and Claimant's representative, respectively, to preserve Claimant's privacy.

2. The Service Agency initially denied the request for P.A., prompting Claimant's request for an administrative hearing.

3(a). On August 19, 2013, the Service Agency informed Claimant and his father that, after informal discussions between the parties, the Service Agency agreed to fund 30 hours of P.A. for Claimant. However, the Service Agency clarified that it would not fund Claimant's father as the paid provider of P.A. The Service Agency cited Welfare and Institutions Code section 4512 in support of its position.

3(b). The Service Agency argued that Claimant's father should not be funded as the P.A. provider because, pursuant to Welfare and Institutions Code section 4512, subdivisions (e) and (f), respectively, he is a natural support and part of Claimant's circle of support, as statutorily defined, and is already the paid provider of a number of Claimant's services.

4. Claimant lives in his family home with his mother. Claimant's father lives in a separate property adjacent to the family home. Claimant's father is still married to his mother. At hearing, Claimant's father did not explain the reason for his separate residence. Currently, the Service Agency funds Claimant's father as Claimant's respite provider (30 hours per month) and transportation provider (to and from Claimant's day program, five days per week). Additionally, Claimant's father is Claimant's in-home supportive services (IHSS) paid provider (120 hours per month). The Service Agency does not fund Claimant's IHSS.

5. Claimant's father conceded that, although he is paid to provide Claimant's respite and transportation directly, when he can, he pays others to provide Claimant those services, using the funds paid to him by the Service Agency. He intends to do the same with the P.A. funds. Claimant's father explained at hearing that he is getting older and needs the help to assist his son who greatly requires these paid services. He provides respite and transportation to Claimant when he cannot find others to assist him. Claimant's father was unaware that occasionally acting as a vendor of Claimant's services, while the Service Agency pays him as a direct service provider, is problematic in any way.

6. Claimant is not a Service Agency vendor. As the direct service provider of Claimant's respite and transportation, the Service Agency pays Claimant's father to provide the services directly. In order to pay others to provide services, as a vendor does, Claimant's father must apply to the Service Agency to become "vendored" and then must comply with numerous regulatory requirements.

## LEGAL CONCLUSIONS

1. Claimant bears the burden of proof by a preponderance of the evidence. (Evid. Code, §§ 115 & 500.)

2. Welfare and Institutions Code section 4512, subdivisions (e) and (f) define "natural supports" and "circle of support." Claimant's father is a natural support of Claimant and is a part of his circle of support; however, neither those provisions nor any other

provisions of the Lanterman Act prohibit a family member from being a paid provider of P.A. services.

3. Nevertheless, the Service Agency has a responsibility to fund services in accordance with the applicable laws and regulations. Claimant's father can provide the Service Agency-funded services directly to Claimant, but to act as a vendor of Claimant's services, there are numerous requirements he and the Service Agency must meet. (Welf. & Inst. Code, § 4648, subd. (a)(3); see, for example, Cal. Code Regs., tit. 17, §§ 54300-54390.) Claimant's father has not met those requirements. By occasionally paying others to provide the respite and transportation services, Claimant's father is misusing those funds. (*Ibid.*) It appears certain that Claimant's father would continue to occasionally act as a vendor with Claimant's P.A. funds, if the Service Agency were to pay Claimant's father directly. Under this scenario, it is appropriate for the Service Agency to deny Claimant's request to pay his father as his personal assistant. As the Service Agency agrees that Claimant needs the P.A. hours, he is entitled to 30 hours per month of P.A.; however, he must, with the help of his service coordinator, find a person, other than his father, to provide the service.

4. Cause exists to grant in part and deny in part Claimant's appeal, as set forth in Factual Findings 1-6, and Legal Conclusions 1-3.

#### ORDER

1(a). Claimant's appeal is granted in part and denied in part.

1(b). The appeal is granted in that the Service Agency shall fund 30 hours per month of personal assistance for Claimant's use.

1(c). The appeal is denied in that the Service Agency shall not pay Claimant's father to act as the direct provider of Claimant's personal assistance.

1(d). Nothing in this Order prohibits Claimant's father from applying for parent vendor status with the Service Agency.

Dated: September 3, 2013



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DANIEL JUAREZ  
Administrative Law Judge  
Office of Administrative Hearings

#### NOTICE

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