

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

CLAIMANT

vs.

GOLDEN GATE REGIONAL CENTER,

Service Agency.

OAH No. 2015090097

DECISION

Administrative Law Judge Diane Schneider, State of California, Office of Administrative Hearings, heard this matter on October 21, 2015, in San Rafael, California.

Claimant was represented by his sister M.H.¹

Lisa Rosene, Chief of Regional Center Services, represented Golden Gate Regional Center (GGRC), the service agency.

The matter was submitted for decision on October 21, 2015.

ISSUE

Must Golden Gate Regional Center reimburse claimant for taxi services in the amount of \$422.50, where such services were secured by claimant outside of the individual program planning process; where such services were not included in claimant's Individual Program Plan (IPP); and where the taxi service was not vendored by GGRC to provide services to consumers?

¹ Initials are used to protect the privacy of claimant's sister.

FACTUAL FINDINGS

1. The testimony of Beth DeWitt, GGRC Manager of Regional Services for Marin County, Claudia Gonzalez, GGRC Social Worker and Service Coordinator, and M. H., and the documentary evidence presented at hearing, established the facts set forth below.

2. Claimant is a 46-year-old man who is a GGRC consumer diagnosed with moderate intellectual disability. Claimant lives at Avalon Adult Group Home (Avalon) in Mill Valley and attends a day program at Pathway to Choices. Claimant was transported to and from his day program by Whistlestop. Problems arose with claimant's transportation due to claimant's behaviors, which included hitting the driver and the windows of the bus, and using profanity.

3. As a result of claimant's behaviors, Whistlestop suspended claimant's transportation until a one-on-one attendant was hired to ride with him in the van. During the time that Whistlestop was searching for a one-to-one attendant, claimant was transported to his day program by Avalon staff and M.H., when they were able to do so. During a brief period in late July 2015, neither M.H. nor Avalon staff was able to transport claimant to his day program, and as a result, claimant was without transportation. M.H. did not want claimant to miss attending his day program, so she decided to pay a taxi service to take claimant to his program on several of these days. The cost of the taxi service was \$422.50.

4. Claimant requested reimbursement from GGRC for the cost of the taxi service in the amount of \$422.50. In a Notice of Proposed Action dated August 11, 2015, GGRC denied claimant's request for retroactive funding of taxi services on the following grounds:

The decision to use a taxi for transportation to day program was made outside of the team process without Regional Center agreement. Once the decision was made by [claimant's] sister the Regional Center was informed of the decision. Taxi service is currently not vendored.

5. Claimant appealed GGRC's decision, and this hearing followed. In the Request for Hearing filed by M.H. on behalf of her brother, she requests reimbursement for the cost of the taxi service. M.H. also expresses concerns that GGRC is not providing the "safest and most-effective" method of transportation, and that GGRC staff has made "ongoing misrepresentations."

6. DeWitt and Gonzalez explained that by law GGRC cannot fund services unless they are: provided by an individual or agency that is vendored by GGRC to provide services, agreed to by the IPP planning team, and memorialized in an IPP. In the instant case, none of these factors were present. The taxi services were unilaterally secured by M.H. without the agreement of the individual program planning team, and claimant's IPP does not include the provision of taxi services. Moreover, GGRC lacked the legal authority to fund

taxi services because there are no GGRC vendors who provide taxi services to GGRC clients. GGRC has tried, without success, to locate a taxi company that will act as a GGRC vendor.

7. Claimant is currently receiving transportation from Whistlestop with the assistance of a one-to-one aide. This arrangement appears to have remedied the previous safety issues. M.H. asserts, however, that transportation by taxi is preferable because claimant's current transportation costs more than a taxi service. While this may be true, as explained in Factual Finding 6, GGRC is legally prohibited from funding taxi services because there is no taxi service that has a contract with GGRC to provide taxi services to its consumers.

8. M.H. cares deeply about her brother's welfare. She is frustrated by what she perceives as GGRC's lack of communication with her regarding decisions that are made about her brother. In the Request for Hearing she filed on behalf of her brother, M.H. describes GGRC staff as having made "ongoing misrepresentations." GGRC staff explained that because M.H. is not her brother's conservator she does not possess the final decision-making authority to accept or reject services that are provided to claimant. While there was no evidence presented suggesting that GGRC engaged in any misrepresentations to M.H., it is hoped that, in moving forward, GGRC understands M.H.'s concerns about her brother's welfare and uses its best efforts to keep M.H. informed of the developments regarding the delivery of services to her brother.

LEGAL CONCLUSIONS

1. The State of California accepts responsibility for persons with developmental disabilities under the Lanterman Developmental Disabilities Services Act (Act). (Welf. & Inst. Code, § 4500, et seq.)² The 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 life of the community." (§ 4501.) Regional centers are charged with the responsibility of carrying out the state's responsibilities to the developmentally disabled under the Act. (§ 4620, subd. (a).)

2. The Act directs regional centers to develop and implement an IPP for each individual who is eligible for regional center services. (§ 4646.) The IPP states the consumer's goals and objectives and delineates the services and supports needed by the consumer. (§§ 4646, 4646.5, & 4648.) Pursuant to section 4646, subdivision (d), IPP's shall be prepared jointly by the planning team, and decisions regarding the services and supports that will be included in the IPP and purchased by the regional center "shall be made by agreement" between the regional center representative and the consumer.

² All references are to the Welfare and Institutions Code unless otherwise indicated.

3. Pursuant to section 4548, subdivision (a)(3), and California Code of Regulations, title 17, section 54310, regional centers may only purchase services or supports for a consumer from an individual or agency who is an authorized vendor of services.

4. In the instant case, GGRC is precluded by statute from reimbursing claimant for taxi services he secured because the planning team did not agree to provide such services; claimant's IPP does not provide for taxi services; and there is no vendor in Marin County who provides taxi services to GGRC consumers. (Factual Finding 6.)

ORDER

Claimant's appeal from GGRC's denial of his request for retroactive funding of taxi service in the amount of \$422.50 is denied.

DATED: November 3, 2015

_____/s/_____
DIANE SCHNEIDER
Administrative Law Judge
Office of Administrative Hearings

NOTICE

This is the final administrative decision in this matter. Judicial review of this decision may be sought in a court of competent jurisdiction within ninety (90) days.