

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

CLAIMANT,

vs.

WESTSIDE REGIONAL CENTER,

Service Agency.

OAH No. 2015100217

DECISION

Administrative Law Judge Angela Villegas, State of California, Office of Administrative Hearings, heard this matter on October 29, 2015, in Culver City, California.

Lisa Basiri, Fair Hearing Specialist, represented Westside Regional Center (WRC).

Claimant¹ represented herself. Also present to assist claimant was her independent living services (ILS) counselor, Cynthia Quintanilla.

Evidence was received, and the matter was submitted for decision on October 29, 2015.

ISSUE

Whether claimant is entitled to twice as many hours of ILS services as she currently receives.

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¹ Claimant's name is not disclosed, in order to protect her privacy.

EVIDENCE RELIED ON

Documentary: WRC's exhibits 1 through 7. Testimonial: Lisa Basiri, Fair Hearing Specialist, WRC; claimant; Cynthia Quintanilla.

FACTUAL FINDINGS

1. Claimant is 56 years old. She lives in her own condominium in West Los Angeles, and plans to continue doing so. Claimant qualifies for regional center services based on a diagnosis of mild intellectual disability.

2. In August 2015, claimant requested that her ILS² be increased from the "SLSA-4" level to "SLSA-5" (exs. 2-4; see Factual Findings 6 and 8), because she wanted to spend more time on meal and menu planning (including finding healthy recipes), and on making and socializing with new friends.

3. On September 10, 2015, WRC sent claimant a letter denying her request, on grounds that it believed the current level of ILS could meet her needs. The level of service claimant requested, SLSA-5, would have doubled the number of hours she receives, and WRC "did not find that the two areas indicated above required such a substantial increase." (Ex. 2.)

4. On September 17, 2015, claimant filed a Fair Hearing Request (FHR), seeking the increase to SLSA-5, because "a lot of my hours are spent on medical appointments and I want more time to work on my independent living skills." (Ex. 2.)

5. Claimant is able to manage many of her own needs, including daily physical imperatives such as hygiene, dressing, exercise, and some meal preparation. For more than 10 years, she has held a job at a restaurant, where she works five days per week, four and a half hours per day. She has a social life with friends and LA Goal activities, and also has a supportive family. To get to and from her various destinations, she rides public transportation, which she is able to do without help, except in unfamiliar areas.

6. Claimant needs assistance with using a computer, maintaining her home, paying bills and managing money, menu planning, grocery shopping, cooking, navigating unfamiliar areas, and making and attending medical and dental appointments. For all of these tasks, claimant relies on ILS, which WRC funds under an Individual Program Plan (IPP) dated March 26, 2015, at the SLSA-4 level of 16 hours per month. Claimant's IPP includes as goals maintaining her living situation, employment, social life and recreation, and health. (Ex. 5.) Claimant does not receive in-home supportive services (IHSS) through any agency.

² WRC classifies ILS and supported living services (SLS) in a single category. References to SLS in the documentary evidence actually mean, in claimant's case, ILS.

7. Claimant is happy with her ILS provider, Creative Support, and her ILS counselor, Cynthia Quintanilla. She would like additional hours of ILS to expand her independent living skills.

8. The SLSA-5 level of ILS would provide for 32 hours per month, twice as many hours as claimant currently receives. The cost of the higher level of ILS would also be double what WRC currently pays.

9. Creative Support provided WRC with SLS Cost Statements on February 1 and August 15, 2015. These statements set forth claimant's goals and Creative Support's services to meet those goals. The August statement (ex. 3) proposed the increase in ILS from SLSA-4 to SLSA-5. Compared with the February statement (ex. 4), the August statement listed several additional proposed services for claimant. But in terms of claimant's need for ILS, the August statement corresponded to claimant's FHR, and the testimony of claimant and Quintanilla, in only one area: namely, the need for additional ILS hours during periods in which claimant must attend more frequent medical appointments than usual.

10. Claimant usually sees her primary care physician two or three times per year, every four or six months. She also sees the gynecologist once per year, and the dentist four times per year for cleanings.

11. Claimant requires ILS for medical appointments: specifically, her ILS counselor must attend the appointments with her, in order to help her understand instructions given by health care professionals, such as how to take medications.

12. In approximately January and February 2015, claimant had persistent skin rashes and had to see the dermatologist approximately twice per month. Those skin rashes resolved. Then, in summer 2015, claimant had staphylococcal (staph) infections on the skin of her arms, which necessitated at least one two-hour trip to an urgent care clinic, as well as an unspecified number of visits with her regular doctor, and treatment with medications. The staph infections have also resolved. Respondent's need for medical attention to deal with her skin problems required her to visit health care providers more frequently than usual. Both claimant and her ILS counselor are concerned that claimant's skin problems will recur, but the evidence did not include a medical prognosis.

13. Ordinarily, the 16 hour-per-month ILS allowance is sufficient to allow claimant to receive all the services she needs. During the periods when claimant had to visit the doctor more frequently than usual due to her skin problems, however, that allotment was not sufficient to meet her needs. Because the ILS counselor had to spend time attending medical appointments with claimant, there was not enough time for the counselor to assist claimant with things such as menu planning and cooking. During those periods, an additional two hours per week of ILS would have been enough to provide claimant with all the services she needed.

14. Neither claimant nor her ILS counselor, nor anyone from Creative Support, informed WRC of claimant's increased need for medical attention, or the concomitant increase in her need for ILS, during the period when claimant had her skin problems. Indeed, on June 11, 2015, claimant asked WRC that she be allowed to have her case reviewed by WRC annually instead of quarterly. (Ex. 6.)

LEGAL CONCLUSIONS

1. WRC need not double claimant's ILS to 32 hours per month.
2. Claimant has the burden to prove, by a preponderance of the evidence, that she is entitled to receive additional hours of ILS. (Evid. Code, §§ 115; 500.) Claimant did not meet her burden.
3. The Lanterman Developmental Disabilities Services Act (Lanterman Act) (Welf. & Inst. Code [WIC], §§ 4500 et seq.), recognizes a public responsibility to provide services and supports for individuals with developmental disabilities. Regional centers are principally responsible for coordinating those services and supports, through the IPP process. (WIC, §§ 4620 et seq.)
4. Under WIC section 4648, subdivision (a), WRC must "[s]ecur[e] needed services and supports" for claimant, "[i]n order to achieve the stated objectives" of claimant's IPP. Among the objectives stated in claimant's IPP are independent living and maintaining claimant's health. (Factual Finding 6.)
5. WIC section 4646, subdivision (a), requires that regional centers balance several interests in procuring services and supports, including "the needs and preferences of the individual and the family"; "promoting community integration, independent, productive, and normal lives, and stable and healthy environments"; providing effective services; and "reflect[ing] the cost-effective use of public resources." Regional centers must pursue "all possible sources of funding for consumers receiving regional center services[,]" including private insurance coverage and government programs such as Medi-Cal, before spending regional center resources to purchase services or supports. (WIC, § 4659, subs. (a) and (b).)
6. The evidence did not show that the 16 hours per month of ILS claimant receives are insufficient to meet her current needs. (Factual Findings 5-14.) On the contrary, that number of hours does meet claimant's current needs. (*Id.*)
7. The evidence showed that 16 hours per month of ILS was not sufficient during periods in which claimant required unusually frequent medical attention, and left some needs unmet during those periods. (Factual Findings 10-14.) But the medical problems that created the need for frequent doctor visits have now resolved. (Factual Finding 12.) Accordingly, as of now, claimant is back to her usual routine of doctor and dentist visits, and

for claimant's current level of need, 16 hours per month of ILS suffices. (Factual Findings 5-14.)

8. Other than the temporary uptick in medical visits during January, February, and summer 2015, the evidence did not show that claimant's need for ILS had increased significantly, so that she requires double the hours she currently receives. (Factual Findings 5-14.) Consequently, WRC need not double claimant's ILS at this time.

ORDER

Claimant's appeal is denied.

Dated: November 4, 2015

ANGELA VILLEGAS
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.