

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

In the Matter of:

OAH NO. 2012041066

PATRICK B.,

Claimant,

Vs.

SAN GABRIEL/POMONA REGIONAL
CENTER,

Service Agency.

DECISION

Administrative Law Judge Humberto Flores, Office of Administrative Hearings, heard this matter in Pomona, California, on June 19, 2012.

Daniela Martinez, Program Manager, Fair Hearings, represented the San Gabriel/Pomona Regional Center (hereinafter regional center or service agency). Patrick B. (claimant) appeared at the hearing and was represented by his parents.

The matter was submitted on June 19, 2012.

ISSUE

The sole issue to be determined in this matter is whether the regional center is obligated to provide funds to purchase a karate uniform for claimant's martial arts program.

FACTUAL FINDINGS

1. Claimant is a 22-year-old consumer of regional center services, whose qualifying condition is mild mental retardation.
2. Claimant lives with his parents and older brother.

3. Claimant has been participating in the School of Hope martial arts classes since 2004. He has shown a strong interest in the program and looks forward to attending his sessions.

4. In the last Individual Program Plan meeting held in December 2011, the regional center informed claimant's parents that funding for the martial arts program would terminate when claimant completed school and started a day program. At some point, the regional center agreed to fund the martial arts program instead of a day program.

5. In early 2012, claimant's parents requested funding for the purchase of a karate uniform costing \$75. Prior to this year, claimant had been receiving karate uniforms from other martial arts participants who had outgrown their uniforms. Now that he is an adult, claimant no longer receives "hand-me-downs."

6. On April 3, 2012, the service agency issued a Noticed of Proposed Action indicating that it denied the funding for the karate uniform.

Funding for uniforms . . . is the responsibility of the client and/or parent. Patrick has been attending Marquez School of Hope karate program since 2005. Since he began, you have been funding the cost of the uniform, supplies, tournaments, etc. You have not reported any change in the household situation or the household income. Parents are working the same amount of hours and schedule, and you also reported that the price of the uniform has not changed in the last 2 years (\$75). Patrick receives \$845 per month in SSI benefits that can be utilized to purchase any needed uniforms . . . The Lanterman Act states that "the regional center shall identify and pursue all possible sources of funding for clients receiving regional center services. Those services shall include but are not limited to . . . federal supplementary security income and the state supplementary program.

Currently, SG/PRC is funding for Karate services and Respite services, which we believe are the current level of services appropriate to meet Patrick's needs.

7. Claimant timely filed a Request for Fair Hearing.

8. The regional center Purchase of Service Policy states in pertinent part: "Services and supports shall be purchased to meet the needs associated with a developmental disability when such services and supports will accomplish all or any part of the Individual Program Plan. As stated in the Lanterman Act, the regional center shall take into account the family's responsibility for providing similar services to a child without disabilities."

9. Claimant's parents asserted that claimant's SSI benefits is just enough for claimant to subsist on a monthly basis. They testified that claimant spends at least \$200 per month on clothes, and \$150 per month on personal grooming items, which leaves only \$500 per month for claimant's basic necessities. Therefore, they contend that claimant cannot afford to use his SSI funds to pay for the uniform. Further, Claimant's father testified that his work hours have been reduced. Finally, claimant's parents contend that since they have not requested funding for transportation to and from the martial arts class they should be allowed the funding for the uniform.

LEGAL CONCLUSIONS

1. In 1977, the California Legislature enacted the Lanterman Developmental Disabilities 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." (*Association for Retarded Citizens v. Department of Developmental Services* (1985) 38 Cal.3d 384, 388.)

2. 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.) 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 IIP notwithstanding, there are certain restrictions regarding the direct purchase of services by a regional center. For example, services provided must be cost-effective, and regional centers are required to control costs so far as possible, and to otherwise conserve resources that must be shared by many consumers. (Welfare and Institutions Code sections 4512, subdivision (b), 4646, subdivision (a), 4640.7, subdivision (b), and 4651, subdivision (a).) Further, regional centers are directed to pursue all possible sources of funding for a consumer receiving regional center services (Welf. & Inst. Code, § 4659, subd. (a)). In addition, regional centers have been directed to take into account the family's responsibility for providing similar services to a child without disabilities. (Welfare and Institutions Code sections 4512, subdivision (b), 4646.4, and 4659, subdivision (a).)

4. In this case, claimant's parent's contention that he spends a total of \$200 from his SSI funds for clothing in an indication that he should be able to make a one-time expenditure of \$75 for karate uniform. In addition, families of children who do not have disabilities would be required to pay for this item. Therefore, cause exists to affirm the Notice of Proposed Action issued by the regional center.

ORDER

The Notice of Propose Action issued by the San Gabriel Pomona Regional Center is affirmed. Claimant's appeal is denied.

DATED: July 6, 2012

_____/s/_____
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.