

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

CLAIMANT,

Claimant,

vs.

REGIONAL CENTER OF THE EAST
BAY,

Service Agency.

OAH No. 2015120066

DECISION

Administrative Law Judge Juliet E. Cox, State of California, Office of Administrative Hearings, heard this matter on January 5, 2016, in San Leandro, California.

Mary Dugan, Fair Hearing and Mediation Specialist, represented service agency Regional Center of the East Bay (RCEB).

Claimant represented herself.

The matter was submitted on January 5, 2016.

ISSUE

Must RCEB fund the purchase and installation for claimant of a ceiling-mounted electric lift to assist her in moving to and from her wheelchair?

FACTUAL FINDINGS

1. Claimant is an RCEB consumer in her mid-40's with cerebral palsy. She uses a wheelchair and has limited use of her arms and hands.

2. Claimant lives independently in a one-bedroom apartment. Staff members from a supportive living service agency assist her in various daily tasks.

Background of Claimant's Request

3. Claimant needs assistance to move in and out of her wheelchair, such as to move between her wheelchair and her bed or between her wheelchair and her shower chair. She uses a mechanical lift for this purpose.

4. For many years, claimant has had a "Hoyer lift," which is a hand-cranked device that raises or lowers a person using a hydraulic pump. The Hoyer lift has wheels, so that the user can move it from place to place. California Home Medical Equipment (CHME) sold this lift to claimant and provides maintenance and repair service for the lift. Funding to purchase and maintain the lift is through claimant's Medi-Cal coverage, not through RCEB.

5. Claimant is dissatisfied with the Hoyer lift, chiefly because it is unreliable. Claimant estimates that the lift breaks down and requires repair two to four times per year, and is out of service each time for a few days. When the lift is broken, if claimant's assistants cannot lift her themselves she must remain in her bed.

Documents from CHME showed that CHME had sent repair technicians to claimant's apartment, at claimant's request, six times between November 3, 2014, and November 18, 2015. The CHME technicians adjusted the lift's wheels and brakes on several occasions. In July 2015, CHME exchanged the entire lift for a replacement. RCEB staff members have from time to time assisted claimant in arranging inspections and repairs by CHME.

6. Claimant would like to replace the Hoyer lift with an electric ceiling-mounted lift. The lift that claimant would like to have uses a motor that travels in a track, permitting lifting at different locations within the room.

7. RCEB has denied claimant's request, and by letter and written Notice of Proposed Action has given two reasons for its decision. First, an electric ceiling-mounted lift funded through RCEB would duplicate the functions of the Hoyer lift funded through Medi-Cal. Second, an electric ceiling-mounted lift is substantially more expensive than a Hoyer lift.

Lift Functionality

8. Claimant testified that she seeks a ceiling-mounted lift in part because it would free up floor space in her bedroom, allowing her and her assistants to move around more easily. An RCEB occupational therapist has visited claimant's apartment to assess how well the Hoyer lift serves claimant's needs, and testified that the bedroom is spacious enough to accommodate the Hoyer lift. The evidence established that although the Hoyer lift takes up floor space, it is not impractical for use in claimant's apartment.

9. Claimant also seeks a lift that is less likely than her current Hoyer lift to break down and leave her stranded in her bed. Without question, the evidence established that lift malfunctions pose serious obstacles to claimant's independence. No information was in evidence, however, comparing the repair frequency for a typical Hoyer lift in ordinary use with the repair frequency for the type of electric ceiling-mounted lift claimant seeks. The evidence did not establish that a ceiling-mounted electric lift would serve claimant more reliably than does claimant's existing Hoyer lift.

Cost-Effectiveness

10. RCEB staff members testified, based on their experiences with other RCEB consumers, that the installation cost for an electric ceiling-mounted lift would be \$5,000 or more, and that the cost of a Hoyer lift is approximately \$1,000. No evidence showed the likely annual maintenance or repair cost for either device. The evidence did not establish that an electric ceiling-mounted lift would meet claimant's needs more cost-effectively than does a Hoyer lift.

LEGAL CONCLUSIONS

1. The State of California accepts responsibility for persons with developmental disabilities, including cerebral palsy, under the Lanterman Developmental Disabilities Services Act (the Lanterman Act). (Welf. & Inst. Code, § 4500 et seq.) The overall goal of the state's services is "to enable persons with developmental disabilities to approximate the pattern of everyday living available to people without disabilities of the same age." (*Id.*, § 4501.) Lanterman Act services are provided through a statewide network of private, nonprofit regional centers, including RCEB. (*Id.*, § 4620.)

2. Claimant is eligible for and receives services from RCEB. (Finding 1.) Some type of mechanical lift is necessary for claimant to live independently in her apartment. (Findings 3, 5.)

3. The Lanterman Act calls for RCEB to provide a wide variety of services to claimant, with the goal of enabling her to live as independently as possible (Welf. & Inst. Code, § 4501; *id.*, § 4640.7, subd. (a)), but it also directs RCEB to provide those services in a cost-effective manner (*id.*, § 4646, subd. (a)). In addition, RCEB may not use its funding to duplicate services for which funding is available to claimant from other sources. (*Id.*, § 4646.4, subds. (a)(2), (a)(3).)

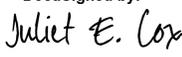
4. Claimant has a hydraulic Hoyer lift that she bought and maintains with funding from the Medi-Cal program. (Finding 4.) The evidence did not establish that a different lift would improve claimant's mobility or independence. (Findings 8, 9.) Also, the evidence did not establish that a different lift would be more a cost-effective mobility solution for claimant than her current Hoyer lift. (Finding 10.) For these reasons, the

Lanterman Act does not oblige RCEB to grant claimant's request for funding to replace her Hoyer lift with an electric ceiling-mounted lift.

ORDER

Claimant's appeal from RCEB's decision denying funding for purchase and installation of an electric ceiling-mounted lift is denied.

DATED: January 7, 2016

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JULIET E. COX
Administrative Law Judge
Office of Administrative Hearings

NOTICE

This decision is the final administrative decision in this matter. Both parties are bound by this decision. Either party may appeal this decision to a court of competent jurisdiction within 90 days.