

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

**In the Matter of:**

**CLAIMANT,**

**vs.**

**TRI-COUNTIES REGIONAL CENTER,**

**Service Agency.**

**OAH No. 2022100694**

**DECISION**

Cindy F. Forman, Administrative Law Judge (ALJ), Office of Administrative Hearings (OAH), State of California, heard this matter by videoconference on December 15, 2022.

Claimant was represented by her mother (Mother). (Family titles are used to identify Claimant and her family to preserve their privacy.) Claimant was not present at the hearing.

Mika Harris represented Tri-Counties Regional Center (TCRC or Service Agency).

The ALJ heard testimony and received documentary evidence. The record closed and the matter was submitted for decision on December 15, 2022.

## **ISSUE**

Should Service Agency be required under the Lanterman Developmental Disabilities Services Act (Lanterman Act) to fund the purchase of a van modified to suit Claimant's needs?

## **SUMMARY**

Claimant requested Service Agency to fund the purchase of a wheelchair-accessible van to accommodate Claimant, her necessary medical equipment and supplies, and two attendants. Claimant failed to prove the Lanterman Act required Service Agency to purchase a van. It is also premature to conclude generic resources are unavailable to fund transportation alternatives that meet Claimant's medical needs. Accordingly, Claimant's request that Service Agency purchase a van for Claimant is denied.

## **EVIDENCE RELIED ON**

Testimonial: Eulalia Apolinar, TCRC Assistant Director; Devon McClellan, MSW, TCRC Services and Supports Manager; Alexis Richard, TCRC Service Coordinator; Steven Graff, Ph.D., TCRC Director of Clinical Services; Mother.

Documentary: TCRC Exhibits 1–18, 20–25; Claimant Exhibits A–Q.

## FACTUAL FINDINGS

### Jurisdictional Facts

1. Claimant is an 11-year-old Service Agency consumer with a so-called fifth category eligible condition, i.e., she has a diagnosis of a disabling condition closely related to intellectual disability or requires treatment similar to that required for individuals with intellectual disability. (See Welf. & Inst. Code, § 4512, subd. (a).) (All further statutory references are to the Welfare & Institutions Code unless otherwise stated.) Claimant lives with her parents, her 16-year-old sister, and her 18-year-old brother in Santa Maria. Her brother is also a Service Agency client based on a diagnosis of autism.

2. On September 21, 2022, Service Agency issued a Notice of Proposed Action (NOPA) to Mother denying funding for the full purchase price of a Mercedes 10-seater Sprinter van (Sprinter). (Exhibit 1.) In support of its denial, Service Agency relied on section 4646.4, subdivision (4), which requires Service Agency to consider the family's responsibility for providing similar supports for a minor child without disabilities, and section 4659, subdivisions (a) and (c), which requires Service Agency to identify and pursue all possible funding sources, including California Children's Services (CCS). Based on these provisions, Service Agency maintains Mother is responsible for providing a van for Claimant's transportation. In addition, Service Agency asserts it has yet to determine if CCS, from which Claimant receives assistance, or any other generic resource can meet Claimant's transportation needs. (Exhibits 1, 2.)

3. Mother filed a fair hearing request (Exhibit 3), which Service Agency received on October 12, 2022. Mother asserts Service Agency is required to purchase a

van to accommodate Claimant because Claimant's needs are extraordinary and generic resources are unavailable to meet those needs.

### **Claimant's Disabilities and Need for Transportation Services**

4. Claimant suffers from intellectual and adaptive skills deficits deemed sufficient by Service Agency to qualify her for regional center services. In 2014, when Claimant was evaluated and deemed eligible for regional center services, Claimant exhibited significant delays in language, developmental delays, and a loss of motor control. (Exhibit 20, p. A105.)

5. After she became a Service Agency client, Claimant was diagnosed with Alternating Hemiplegia of Childhood (AHC), a rare genetic progressive disease, Hemiplegic Migraine Type 2, and Congenital Muscular Dystrophy. As a result of her AHC, Claimant suffers from episodes of paralysis of up to two weeks and is also prone to seizures. AHC episodes are triggered by environmental conditions, physical activities, emotional responses, odors, fatigue, and medication. AHC is also associated with developmental delays and epilepsy. (Exhibit H.) Mother testified AHC is the source of Claimant's developmental delays. No contradictory evidence was offered.

6. Claimant's health and cognitive abilities have declined since her Service Agency eligibility evaluation. As a result of surgery complications to address her AHC, Claimant is now permanently ventilator dependent at all times. She cannot sit up or hold her head up unassisted. She also cannot crawl or walk. She can move her arms and sometimes hold an object in her hand. Claimant uses a customized wheelchair that is molded to her body. She needs to be moved every few hours to avoid pressure sores. Claimant also has a specialized bed and a special chair. She is continuously fed via a gastric tube. Her water intake requires monitoring. She requires suctioning every

few minutes to avoid choking because of excess saliva. Claimant does not sleep through the night. She requires constant supervision. She relies on assistance from her parents for all self-care, daily living, and toileting needs.

7. Claimant receives Home Hospital Education services through her assigned school district. A teacher visits her twice a week for 30-minute sessions, and Claimant receives speech therapy once a week and occupational therapy once a month. She is being taught to communicate through an eye-tracking device.

8. Service Agency funds respite and personal assistance services for Claimant. Claimant receives nursing care funded by CCS through CenCal, the Medi-Cal provider for Central California. She also receives In-Home Supportive Services (IHSS). Mother is Claimant's IHSS provider.

9. Claimant's AHC and other diseases require monitoring by several different medical specialists. Many of these specialists are located outside of Santa Barbara County, where Claimant resides. In addition to doctors in Guadalupe, San Luis Obispo, and Santa Barbara, Claimant sees a pulmonologist and a neurologist every six months at Valley Children's Hospital in Madera; another neurologist every six months at UCLA in Los Angeles; and a neurologist every six months at Children's Hospital in Orange County (CHOC). (Exhibit 10, pp. A76–A77.) Valley Children's Hospital, UCLA, and CHOC are a three to four-hour car ride from Claimant's residence. Mother estimates Claimant needs to see these physicians a total of 11 to 12 times a year, approximately once a month. Mother maintains Claimant's appointments with these physicians are valuable and necessary because of the rarity of Claimant's condition. No evidence was presented as to how long Claimant will need to be monitored by these specialists and at what time intervals.

10. Because of the distances involved and the stress placed on Claimant by traveling, Claimant frequently needs to stay in a hotel the night before her out-of-county medical appointment. To do so safely, Claimant requires a ventilator, a respiratory vest, oxygen tanks, a suction machine, a backup battery for the machine, a spare ventilator, a feeding pump, an emergency tracheotomy bag, a cough machine, carts and poles to hold her equipment, and other supplies, including diapers, a refrigerator to keep food cold, a humidifier, syringes, extra tubing, and bags. In addition, according to Claimant's treating medical personnel at CHOC, Claimant requires at least two trained caregivers to travel with her to ensure her ventilator is working correctly and to monitor her secretions. (Exhibit Q.) For local medical trips, Claimant still needs some but not all of this equipment.

11. Currently, Claimant's parents rely on their 2011 Toyota Sienna (Sienna) eight-passenger minivan to transport Claimant to all her medical appointments. The minivan has 80,000 miles. The minivan is ineligible to be retrofitted to accommodate a wheelchair because of its age and mileage. Although Mother currently uses the Sienna to transport Claimant to her out-of-county medical appointments, she maintains the minivan is no longer safe or suitable for Claimant's needs.

12. According to Mother, the Sienna is not large enough to fit Claimant and all the equipment and supplies she needs for an overnight stay. In addition, Claimant's new wheelchair, acquired sometime in 2022, is heavy and requires two people to lift it in and out of the vehicle. The new wheelchair is also taller than Claimant's previous wheelchair. Although Claimant has a portable ramp for the wheelchair, it takes up additional and valuable space when kept in the Sienna and blocks Claimant's wheelchair.

///

13. Mother described the issues regarding the Sienna as follows:

To get [Claimant] in [the Sienna], we have to put on her ventilator as a backpack, carry her, while someone else spots and holds the hoses, wires and other machines, then place her in the vehicle, buckle her in the car seat, remove the backpack, place it on the seat next to her, untangle all the machine wires, hook her feeding pump around the headrest on front seat, place the suction machine on the floor near her feet, double-person lift the wheelchair into the car, load all the supplies, oxygen, etc. Someone has to sit next to her and with the equipment taking up the middle seat, and floor, there's barely any room for the attendant person to sit back there let alone be able to take care of any emergency need or to even fit our whole family in the car at the same time. Which we cannot do any more safely.

(Exhibit 4, p. A18.)

14. Claimant's family cannot afford to buy a new minivan. Father is disabled, does not work, and receives no disability benefits. Mother was forced to leave her job with the Department of Social Services over seven years ago to care for Claimant. She is not able to hold another job because she takes care of Claimant full-time. The only sources of family income are Mother's IHSS payments and Claimant's disability benefits. Mother testified she uses that income to purchase food, pay for Claimant's uninsured expenses, gas, and monthly expenses, and make the mortgage payments on the family home. Because of their financial situation, Claimant's family cannot make a monthly car payment or a down payment for a van. Mother does not have friends or

family to contribute funds for a new van. Mother testified she could afford to pay \$300 toward a new van.

15. Claimant's most recent Individualized Program Plan, signed by Mother and Service Agency personnel on October 6, 2022 (2022 IPP), states it is important for Claimant "to have all her medical supplies with her at all times"; "to be supervised 24/7 to monitor her health, water intake, and saliva suctioning"; "to continue to have a team of specialist[s] and attend all medical appointments"; and to continue to access education services and CCS. (Exhibit 10, p. A74.) There is no mention in the 2022 IPP regarding efforts to integrate Claimant into the community.

### **Discussions with Service Agency and the Availability of Transportation Alternatives**

16. Mother communicated to Service Agency as early as August 2019 regarding the unsuitability of the Sienna to meet Claimant's needs and the need for a new van, which the family could not afford. In response, Claimant's Service Coordinator (SC) Alexis Richard initially forwarded information about obtaining a used wheelchair-accessible van and indicated she would discuss "possible funding" with other Service Agency team managers. (Exhibit 4, p. A11.) In October 2019, Mother informed SC Richard the Sienna could not be modified based on her discussions with several vendors and again asked Service Agency for assistance. Mother then turned in additional paperwork to Service Agency documenting the van was ineligible for retrofitting. Service Agency did not respond to Mother's request for a new van until September 2022, when Service Agency denied another request for the van purchase submitted by Mother in August 2022.



17. Mother asserts Service Agency did nothing to assist her in obtaining a new van even though Claimant's 2021 IPP, which was not offered as evidence, stated the family needed a new wheelchair-accessible vehicle. The 2022 IPP notes the Service Agency planning team is continuing to "figure out" Claimant's transportation needs and will "continue to support [the] family in exploring modifications to the vehicle that may be needed based on [Claimant's] developmental disability." (Exhibit 10, p. A77.) The 2022 IPP acknowledged Mother requested Service Agency to fund a van but that a NOPA had been issued denying Mother's request.

18. Since the issuance of the NOPA and the 2022 IPP, Service Agency has made efforts to determine whether generic resources could fund the purchase of a wheelchair-accessible van. Mother too has investigated charitable foundations and other possible grant sources. Neither Service Agency nor Mother has been successful in locating a funding source for a new minivan. Service Agency informed Mother she could crowd-source funds to pay for the van and deposit the funds in a CalAble account without threatening Claimant's eligibility for government benefits. However, the limit for a CalAble account is \$16,000 a year, which is insufficient to cover the purchase of a van equipped to accommodate Claimant's needs unless such accounts were accumulated over several years. Service Agency also located a potential grant source for \$5,000 and additionally indicated Service Agency might be able to fund wheelchair modifications to a vehicle, but those funds are still inadequate to cover a van purchase.

19. Mother and Service Agency also contacted CCS regarding the purchase of a new van. CenCal, which contracts to provide medical care for CCS clients, denied Mother's request on October 4, 2022, because providing a van with wheelchair access is not a covered benefit under the CCS program or Medi-Cal. (Exhibit B, p. B20.)

20. Public transportation is not an adequate solution for Claimant's transportation needs. Claimant requires too much equipment and the distances to out-of-county medical providers are too far. In addition, Claimant requires frequent diaper changes and often experiences sudden emergencies necessitating interventions and stopping the vehicle.

21. Mother and SC Richard have met with CenCal to discuss transportation alternatives to purchasing a van. CenCal provides transportation assistance as a medical benefit. CenCal proposed using van transportation through the Ventura Transit System (VTS) and non-emergent ambulance services to transport Claimant to her out-of-county medical appointments. VTS was deemed unacceptable by both Mother and Service Agency because only one person could accompany Claimant, instead of the two attendants recommended to ensure full-time supervision, and because no equipment could be plugged in during the transport so Claimant could not use her ventilator, pulse oximeter, or suction machine. Additionally, VTS will only drop Claimant off at a medical facility, not a hotel.

22. Mother recently contacted the two non-emergent ambulance services recommended by CenCal. Mother found these alternatives unacceptable as well. The non-emergent ambulance services would only drop Claimant off at a medical facility, not a hotel, and lacked sufficient space to accommodate Claimant's equipment and supplies. Mother also expressed concern regarding the cleanliness of the ambulances because of Claimant's susceptibility to infection. Additionally, according to Mother, Claimant may find ambulance transport overstimulating or traumatizing, which could trigger an AHC episode of paralysis or seizures. One ambulance service suggested a pickup truck containing Claimant's equipment accompany the ambulance, which Mother also found unacceptable. Mother calculated the cost of a nonemergent

ambulance to make a round trip to CHOC would be over \$32,000. (Exhibit A, p. B12.) The evidence did not make clear whether Mother communicated her concerns regarding the ambulance services to CenCal.

23. According to SC Richard, CenCal is willing to explore other transportation alternatives with Mother. To do so, CenCal requires a Physician Certification Form to inform CenCal of Claimant's transportation requirements. Mother has refused to authorize CenCal or TCRC to speak with Claimant's doctors directly. At hearing, Mother provided a letter from CHOC regarding Claimant's medical needs and travel requirements. (Exhibit Q.) It was not clear whether this letter had yet been shared with CenCal or CCS or whether the letter provided the information sought in the CenCal Physician Certification Form. Service Agency also has not had time to follow up on the information provided in the letter.

### **Testimony by Service Agency**

24. Service Agency contends it is the parents' responsibility to provide transportation for their child, and therefore it is Claimant's parents' responsibility to provide Claimant a van. Eulalia Apolinar, TCRC Assistant Director, testified Service Agency has never approved the purchase of a vehicle for a family because such a purchase is a personal decision and personal responsibility. She testified the regional center's obligation is to fill in the gap caused by the disability, whether it is a vehicle modification or identifying generic resources that could meet a client's transportation needs. According to Ms. Apolinar, the regional center is not "there to cover everything in the life" of a regional center consumer.

25. Ms. Apolinar asserted Service Agency's Transportation Policy and Guidelines (Guidelines), which the Department of Social Services (Department) had

approved in 2013, supports Service Agency's position. The Guidelines recognize transportation supports and services lead to greater opportunities for participating in community life and becoming more independent. (Exhibit 24, p. A114.) The Guidelines state parents, using private or public transportation services, are responsible for transporting their school-age children to social and recreational activities, medical and dental appointments, therapy services, and other occasional trips in the community. (*Ibid.*) To assist them, the Guidelines provide Service Agency may authorize the "most cost-effective transportation supports and/or services for children when parent provided transportation, including public transit, is unavailable." (*Ibid.*) If Service Agency provides any transportation support or service to a school-age child, it must lead to measurable outcomes, and any transportation support or service for a school-age child must be both a "clinically and fiscally effective use of public funds." (*Ibid.*) However, the Guidelines acknowledge "some individual needs are so unique that they may require an exception." (*Ibid.*) Those exceptions are to be dealt with through the planning team process.

26. SC Richard acknowledged Mother had first inquired about a new van in 2019. She claimed there was a misunderstanding that Mother wanted resources for a van modification instead of a van. SC Richard confirmed none of the generic financial resources she has identified thus far will fund the entire purchase of a van. SC Richard testified there are still resources to explore regarding the purchase of a new van but at this time she is not aware of any. SC Richard is continuing to explore transportation alternatives for Claimant. She continues to work with CenCal to identify those alternatives.

27. Dr. Graff testified Claimant's eligibility for Service Agency services has not been updated since her initial evaluation in 2014. He also testified Claimant's Client

Development Evaluation Record may not reflect Claimant's current health condition. Neither Dr. Graff nor the Service Agency clinical team has been asked to review Claimant's transportation needs.

28. TCRC Manager Devon McClellan explained Service Agency could consider funding the modification of a van to accommodate a wheelchair but could not purchase the van itself under the Lanterman Act. She likened the situation to a request to purchase a house with a ramp; the regional center could purchase the ramp as adaptive equipment, but not the house. Similarly, a van could not be considered adaptive equipment. Ms. McClellan also noted that locating funding resources and identifying acceptable transportation alternatives is a lengthy process.

### **Mother's Testimony**

29. Mother is a strong, effective, and resourceful advocate for Claimant. She has done extensive research on Claimant's needs and the potential resources to meet those needs. She has repeatedly made clear to Service Agency and others the desperate need for appropriate transportation for Claimant.

30. According to Mother, she did not specifically request the purchase of a wheelchair-modified Sprinter van. Instead, she requested a van that could accommodate Claimant's supplies and equipment, particularly the height of Claimant's new wheelchair, as well as two attendants. Based on Mother's research, the Sprinter is the only van to meet those requirements. Mother contends no compact car, SUV, truck, or minivan can be retrofitted to accommodate Claimant's wheelchair, equipment, and supplies, and also accommodate an attendant person who can sit next to Claimant and manage her needs. Mother also wants a new van because of the

extensive mileage accumulated by the out-of-county travel for Claimant's medical appointments.

31. Mother did not submit any written estimates for the purchase of a Sprinter. She testified her research showed a new Sprinter with a wheelchair accommodation would cost between \$74,000 to approximately \$100,000. There was no evidence regarding the costs of any other van that might meet Claimant's needs.

32. Mother maintains her ownership of the family's current vehicle, the Sienna, demonstrates she has met her parental responsibility to provide a vehicle for her family's transportation. And, if Claimant's needs had not become more extensive as a result of her health condition, that vehicle would still be appropriate. However, because of Claimant's more difficult health issues and the equipment and supplies needed to address those issues, the Sienna is now too small, too old, and has too many miles to accommodate Claimant and the new equipment and supplies. Mother contends the added features of a van like the Sprinter are only necessary because of Claimant's disability.

33. Mother asserts Service Agency is responsible for purchasing a new van because a new van is not a covered benefit offered by CenCal. According to Mother, Service Agency has had more than three years to locate generic resources to fund a new van but has failed to do so. In addition, she has done extensive research and has not been able to find any resources to fund the purchase of a new van.

34. Mother also asserts Claimant needs a new van to enable her to participate in community life. Additionally, Mother indicated a new van is necessary to take Claimant to her local medical appointments and therapy. However, the record is not clear as to the frequency of those appointments or therapy sessions.

35. Mother acknowledges her request is not typical. However, she believes a new van is the most cost-effective, practical, appropriate, and safest transportation for Claimant. Mother repeatedly asserted that the Lanterman Act does not prohibit the purchase of a van and the Lanterman Act places no cap on the costs of services and supports that can be provided by the regional center. According to Mother, purchasing a new van for Claimant is consistent with Lanterman Act goals because buying a van will cost less than transporting Claimant by ambulance and the van would be specifically tailored to Claimant's needs. Finally, Mother contends Service Agency has ignored Claimant's needs by demanding the family purchase a van that they cannot afford.

## **LEGAL CONCLUSIONS**

### **Standard and Burden of Proof**

1. The Lanterman Act (§ 4500 et seq.) governs this case.
2. The standard of proof in this case is the preponderance of the evidence because no law or statute (including the Lanterman Act) requires otherwise. (Evid. Code, § 115.) A preponderance of evidence standard is met when the party bearing the burden of proof presents evidence that has more convincing force than that opposed to it. (*People ex rel. Brown v. Tri-Union Seafoods, LLC* (2009) 171 Cal.App.4th 1549, 1567.)
3. The individual seeking government benefits or services has the burden of proving entitlement to such benefits or services. (See, e.g., *Lindsay v. San Diego County Retirement Bd.* (1964) 231 Cal.App.2d 156, 161.) In this case, Claimant seeks funding for a new van customized to accommodate a wheelchair, equipment, supplies,

and two attendants. She therefore has the burden of proving by a preponderance of the evidence she is entitled to such funding. Claimant failed to meet her burden of proof.

## **Applicable Law**

4. In enacting the Lanterman Act, the Legislature accepted its responsibility to provide for the needs of developmentally disabled individuals, and recognized services and supports should be established to meet the needs and choices of each person with developmental disabilities. (§ 4501.) The purpose of the statutory scheme is twofold: to prevent or minimize the institutionalization of developmentally disabled persons and their dislocation from family and community, and to enable developmentally disabled persons 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. (*Assn. for Retarded Citizens v. Dept. of Developmental Services* (1985) 38 Cal.3d 384, 388.)

5. The determination of which services and supports will best address a consumer's needs is made through the IPP process. The Lanterman Act gives regional centers, such as Service Agency, a critical role in the coordination and delivery of services and supports for persons with disabilities through the IPP process. (§ 4620 et seq.) Regional centers are responsible for developing and implementing IPPs, taking into account consumer needs and preferences, and ensuring the services and supports provided are cost-effective. (§§ 4646, 4646.5, 4647, 4648.) Regional center services and supports are to be flexible and individually tailored to the consumer and, where appropriate, their family. (§ 4648, subd. (a)(2).)



6. Section 4512, subdivision (b), defines the services and supports that may be identified and funded through the IPP process:

“Services and supports for person with developmental disabilities” means specialized services and supports or special adaptations of generic services and supports directed toward the alleviation of a developmental disability or toward the social, personal, physical, or economic habilitation or rehabilitation of an individual with a developmental disability, or toward the achievement and maintenance of independent, productive, and normal lives.

Services and supports “may include” “adaptive equipment and supplies” and “transportation services necessary to ensure delivery of services to persons with developmental disabilities.” (§ 4512, subd. (b).)

7. Consumer preferences cannot relieve the regional center from its obligation under the Lanterman Act to expend public funds in a program-effective and cost-effective manner. Any purchase of service or support must conform with the regional center’s purchase of service policies, which have been approved by the Department. (§ 4646.4, subd. (a)(1).) Generic services and supports are to be used if appropriate. (§ 4646.4, subd. (b)(1).) The family’s responsibility for providing similar services and supports for a minor child without disabilities must also be considered. However, in making this determination, the regional center is required to take into account the consumer’s need for extraordinary care, services, supports, and supervision, and the need for timely access to this care. (§ 4646.4, subd. (a)(4).)

8. The regional center must also “identify and pursue all possible sources of funding” for services, including, but not limited to, “[g]overnmental or other entities or programs required to provide or pay the cost of providing services” and “[p]rivate entities, to the maximum extent they are liable for the cost of services . . . .” (§ 4659, subd. (a); see also §§ 4683, 4684.) Any funds collected from such sources “shall be applied against the cost of services prior to use of regional center funds for those services.” (§ 4659, subd. (b).) The regional center is not permitted to purchase any service that would otherwise be available from Medi-Cal or CCS. (§ 4659, subd. (c).) Additionally, “[r]egional center funds shall not be used to supplant the budget of any agency which has a legal responsibility to serve all members of the general public and is receiving public funds for providing those services.” (§ 4648, subd. (a)(8).)

9. The regional center must also consider the state’s limitations on funding transportation services in section 4648.35. Those limitations require the regional center to fund the least expensive transportation modality that meets the consumer’s needs as described in the IPP. A regional center shall fund transportation, when required, from the consumer’s residence to the lowest-cost vendor that provides the service that meets the consumer’s needs. Additionally, a regional center shall fund transportation services for a minor child living in a family residence only if the child’s family provides sufficient written documentation to the regional center to demonstrate that it is unable to provide transportation for the child.

10. The provision of transportation services is also restricted by regulation. (See Cal. Code Regs., tit. 17, § 58500, et seq.) Thus, a regional center can purchase transportation services only when the transportation service is included in the consumer’s IPP, the vendor’s rates have been approved by the regional center or Department, provision of transportation services is not the responsibility of any public,

generic resource; and provision of the transportation service is not part of the consumer's day-based program. (Cal. Code Regs., tit. 17, § 58510, subd. (a).) Additionally, if a regional center purchases a transportation service it must do so under specified procurement processes. (*Id.* at subd. (b).) And before purchasing such a service, the regional center must establish the vendor's liability coverage and provide monthly records of services provided to each consumer. (*Id.* at subd. (c).) Transportation services can include public transit, Dial-A-Ride, rental car agencies, taxis, and medical transportation. (*Id.* at §54342, subd. (a)(85), (86).)

## **Analysis and Disposition**

11. Claimant requires extraordinary care, services, supports, and supervision. As a consequence, her parents face a situation that is not comparable to those facing parents of children without disabilities. Thus, if a van purchase is considered a specialized service or support, Claimant's request for a van is not barred by either the Guidelines or section 4646.4, subd. (a)(4).

12. However, it is not clear whether the Lanterman Act supports the purchase of a van for a regional center consumer. Although the list of specialized services and supports in section 4512, subdivision (b), is not exhaustive, and the term "include" is considered a "term of enlargement rather than limitation" (*Loyola Marymount University v. Los Angeles Unified School Dist.* (1996) 45 Cal.App.4th 1256, 1262), nothing in the Lanterman Act statutory or regulatory scheme expressly authorizes the purchase of a vehicle, even under the extraordinary circumstances presented here. A purchase of a vehicle is not listed as a service or support to be funded under section 4512, subdivision (b). A van does not constitute "adaptive equipment" or constitutes a "transportation service" to ensure the delivery of services to persons with developmental disabilities.

13. There are also no statutes or regulations under the Lanterman Act governing the purchase of a vehicle for a regional center consumer or contemplating such a purchase. On the contrary, the regulations address the use of public transportation, generic resources, specialized transportation services, and vehicle rentals to meet a regional center consumer's special transportation needs. The regulations also assume it is the responsibility of the transportation vendor to obtain liability coverage and provide records of transportation services provided to the regional center consumer. (See Legal Conclusion 10.) There is no reference to the purchase of a vehicle to fulfill a consumer's transportation needs. Additionally, no statutes or regulations address who would own title to a new vehicle acquired by the regional center for a consumer's benefit or the disposition of the vehicle if it no longer serves a regional center consumer's needs. Nor is there any statute or regulation about who would be responsible for paying insurance, fuel, repair, or maintenance costs for any vehicle purchased by a regional center, particularly when the regional center consumer's family is unable to do so. There also are no statutes or regulations dealing with the permitted use of a vehicle purchased by the regional center for a consumer's use when it is not used to transport the consumer, i.e., the use of the van if Claimant stays home. The absence of such regulations or policies suggests neither the Legislature nor the Department intended the Lanterman Act to enable regional centers to purchase a vehicle for their clients.

14. Even if a vehicle purchase is permissible under the Lanterman Act, Claimant has not demonstrated by a preponderance of the evidence she has met other Lanterman Act requirements governing the provision of transportation services. Discussions with CenCal, a generic funding source, are not yet exhausted as required by section 4659 and California Code of Regulations, title 17, sections 58510. (Factual Findings 21–23, Legal Conclusions 8–10.) It is therefore premature to conclude CenCal

cannot provide transportation services to meet Claimant's needs. Although CenCal denied Claimant's request to purchase a vehicle, CenCal has yet to fully evaluate what other options are available to meet Claimant's needs. CenCal has indicated it requires a complete medical evaluation from Claimant's physicians to determine what transport would meet Claimant's nonemergent medical needs. It is not clear whether the letter from CHOC provides the information CenCal seeks. (Factual Finding 23.) Once CenCal obtains the requested information, it will be in a better position to evaluate possible transportation alternatives appropriate for Claimant. Service Agency can act on Claimant's request only if and when CenCal determines it cannot offer any safe and cost-effective alternatives. (Legal Conclusions 7, 8, 10.)

15. Service Agency is also obligated to undertake its own investigation as to what available cost-effective transportation service options might serve Claimant's needs. (Legal Conclusions 7, 9, 10.) That investigation should include appropriate assessments regarding Claimant's current medical condition and what is needed to transport Claimant safely to her medical appointments if a new van cannot be furnished. All creative options should be explored expeditiously.

16. Additionally, Mother testified Claimant needs transportation to participate in the community. The 2022 IPP does not discuss the nature of that community participation. Nor was it made clear at the hearing the equipment required by Claimant to participate in the desired activities. Further discussion is therefore needed to evaluate what transportation services Claimant requires to travel to community activities.

17. Claimant's transportation needs are dire, extraordinary, and complex. Although Mother considers the purchase of a van to be the only option to meet those needs, the regional center is bound by statute to make sure the services it provides to

Claimant are cost-effective and funded through generic resources, if possible. While it is unfortunate the process to explore such services and supports has taken more than three years, the process is not yet complete. Now that Service Agency is aware of the scope of Claimant's transportation issues, it is responsible for completing a thorough evaluation of available transportation resources as soon as possible. Time is of the essence. Mother can assist in that process by allowing Service Agency to perform the necessary assessments and to directly communicate with Claimant's medical providers to determine Claimant's needs.

### **ORDER**

Claimant's request that Tri-Counties Regional Center purchase a wheelchair-accessible van for Claimant's transportation is DENIED.

DATE:

CINDY F. FORMAN  
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.

