

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. 2014120231

DECISION

Jill Schlichtmann, Administrative Law Judge, Office of Administrative Hearings, State of California, heard this matter on August 4, 2015, in San Leandro, California.

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

There was no appearance by, or on behalf of, claimant.

The record closed on August 4, 2015.

FACTUAL FINDINGS

1. Claimant's mother is his authorized representative. She executed a request for a fair hearing on behalf of claimant, which she filed on December 1, 2014.

2. The fair hearing request challenges a determination by RCEB that claimant is not eligible for regional center services because he does not have a qualifying condition under the Lanterman Developmental Disabilities Services Act (Welf. & Inst. Code, § 4500 et seq).

3. On January 8, 2015, claimant waived his right to have a fair hearing within 50 days of the date RCEB received his fair hearing request, and his right to have a final administrative decision rendered within 80 days of his fair hearing request, or within 90 days, if applicable. (Welf. & Inst. Code, §§4712, subd. (a), 4712.5, subds. (a) and (c).)

4. The hearing on claimant's appeal was initially scheduled for January 12, 2015, and a notice of hearing was sent to the address listed on the fair hearing request for claimant and his mother. The hearing date was continued at claimant's request to March 16, 2015, because he needed to obtain documentation; claimant was served with a new notice of hearing.

5. On March 13, 2015, claimant requested another continuance to obtain necessary documentation. A continuance was granted until April 30, 2015, and a notice of hearing was served.

6. On April 23, 2015, claimant requested a third continuance in order to obtain documentation. The request was granted and the matter was continued until July 2, 2015; a new notice of hearing was served.

7. On June 30, claimant made yet another request for a continuance in order to obtain documentation. RCEB objected to the continuance. The request was granted over RCEB's objection, and the matter was continued until August 4, 2015. A notice of continued hearing was sent to claimant and his mother at their address of record.

8. On August 3, 2015, claimant's mother contacted the Office of Administrative Hearings and requested another continuance. RCEB objected to the continuance request. The request was denied and claimant's mother was advised that the hearing would go forward as scheduled.

9. On August 4, 2015, neither claimant nor anyone acting on his behalf appeared; therefore no evidence in support of the appeal was presented or considered.

LEGAL CONCLUSIONS

1. As claimant is seeking to establish eligibility for government services, he has the burden of proving by a preponderance of the evidence that he has met the criteria for eligibility. (*Lindsay v. San Diego Retirement Bd.* (1964) 231 Cal.App.2d 156, 161 [disability benefits]; *Greatorex v. Board of Admin.* (1979) 91 Cal.App.3d 54, 57 [retirement benefits]; Evid. Code, § 500.)

2. The failure to appear and to present evidence in support of the appeal is deemed to be a withdrawal of the request for a fair hearing, and provides cause to dismiss the appeal.

ORDER

Claimant's appeal is dismissed.

DATED: August 4, 2015

_____/s/_____

JILL SCHLICHTMANN

Administrative Law Judge

Office of Administrative Hearings