

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

CLAIMANT,

and

INLAND REGIONAL CENTER,

Service Agency.

OAH No. 2016080976

DECISION

Administrative Law Judge Roy W. Hewitt, Office of Administrative Hearings, State of California, heard this matter in San Bernardino, California on October 12, 2016.

Claimant's mother appeared telephonically and represented claimant.

Leigh-Ann Pierce, Consumer Services Representative, Fair Hearings and Legal Affairs, represented the Inland Regional Center (IRC).

ISSUE

Is claimant still eligible for regional center services?

FACTUAL FINDINGS

1. Claimant, a six-year-old male, was evaluated by the IRC Early Start Unit in November of 2012. Based on the evaluation claimant was found eligible for services under the category of at-risk for a developmental disability - autism. On May 14, 2013, claimant was assessed "[t]o determine current level of functioning and ongoing Lanterman eligibility . . . under the category of at-risk for a developmental disability. As a result of the comprehensive assessment the following recommendation was made:

"Eligible for Regional Center services under the criteria of autism. Reassess at IRC in 2 years" (Exh. 8.)

2. On May 5, 2016, claimant was referred to IRC Staff Psychologist Ruth Stacy, Psy.D., for a psychological assessment. The reason for the referral was "for assessment to obtain [claimant's] current levels of functioning and to assist the Multidisciplinary Team in determining his eligibility for regional center services under the Lanterman Act criteria for individuals three years old and above." (Exh. 9) Dr. Stacy assessed claimant by gathering information from the Childhood Autism Rating Scale, Second Edition – Standard Version (CARS2-ST); the Vineland Adaptive Behavior Scales – Second Edition (Vineland-II); a diagnostic interview of claimant's mother; observations of claimant; and a complete file/records review, including records from the school district. The assessment resulted in the following diagnostic impressions: "Rule out Speech Sound Disorder"; and "Rule out Attention Deficit Hyperactivity Disorder." Dr. Stacy recommended, in part: "[Claimant] be considered not eligible for regional center services under Intellectual Disability, Autism Spectrum Disorder, or a handicapping condition closely related to Intellectual Disability that requires treatment similar to what individuals with Intellectual Disability need, as defined in Welfare and Institutions Code, Section 4512, and Title 17, California Code of Regulations, Section 54000."

3. On July 10, 2013, claimant's school district found claimant eligible for special education services under "the eligibility of speech and/or language impairment." (Exh. 6) There was no indication in the Individualized Education Program (IEP) report that the school district detected any Intellectual Disability, Autism Spectrum Disorder, or a handicapping condition closely related to Intellectual Disability that requires treatment similar to what individuals with Intellectual Disability need, as defined in Welfare and Institutions Code, Section 4512, and Title 17, California Code of Regulations, Section 54000. The IEP report was consistent with Dr. Stacy's assessment.

4. Mother testified that she believes claimant has Autism Spectrum Disorder and that he should qualify for regional center services on that basis.

5. Dr. Stacy's testimony is summarized as follows: Claimant does not meet the criteria for Autism Spectrum Disorder or any other "developmental disability" as defined in the Lanterman Act; a July 10, 2013, school district psychoeducational evaluation "did not point in the direction of Autism Spectrum Disorder"; rather, it was "more characteristic of speech and language difficulties"; the school district uses a "much broader definition of Autism" under Title 5, than the "regional centers use based on Title 17"; therefore, the fact the school district did not find claimant eligible for special education services based on autism was consistent with Dr. Stacy's assessment; Dr. Stacy concluded that claimant was "not eligible [for regional center services] under any diagnosis."

6. Mother was notified of IRC's decision that claimant did not qualify for IRC services, she timely appealed IRC's decision to discontinue services and she attended an informal meeting with IRC personnel on September 7, 2016. The informal meeting did not change IRC's determination to discontinue services, so the instant hearing ensued.

7. No competent medical or psychological evaluation evidence was presented to refute Dr. Stacy's professional opinions resulting from her comprehensive reassessment of claimant. Additionally, Dr. Stacy's conclusion that the original determination that claimant was eligible was clearly erroneous is consistent with the contents of claimant's school district documents.

LEGAL CONCLUSIONS

1. In enacting the Lanterman Act (Welf. & Inst. Code, § 4500 et seq.), the Legislature accepted its responsibility to provide for the needs of developmentally disabled individuals, and recognized that services and supports should be established to

meet the needs and choices of each person with developmental disabilities. (Welf. & Inst. Code, § 4501.)

2. Welfare and Institutions Code section 4512, subdivision (a), defines developmental disability as follows:

'Developmental disability' means a disability that originates before an individual attains age 18 years, continues, or can be expected to continue, indefinitely, and constitutes a substantial disability for that individual . . . [T]his term shall include intellectual disability, cerebral palsy, epilepsy, and autism. This term shall also include disabling conditions found to be closely related to intellectual disability or to require treatment similar to that required for individuals with an intellectual disability, but shall not include other handicapping conditions that are solely physical in nature.

3. Welfare and Institutions Code section 4643.5, subdivision (b) provides, in part:

An individual who is determined by any regional center to have a developmental disability shall remain eligible for services from regional centers unless a regional center, following a comprehensive reassessment, concludes that the original determination that the individual has a developmental disability is clearly erroneous.

EVALUATION

4. The only competent evidence presented established that claimant does not have a qualifying developmental disability and the original determination that he had or may have a developmental disability is clearly erroneous.

ORDER

Claimant's appeal is denied. IRC's finding that claimant no longer qualifies for regional center services is affirmed.

Dated: October 18, 2016

ROY W. HEWITT

Administrative Law Judge

Office of Administrative Hearings

NOTICE

This is a final administrative decision pursuant to Welfare and Institutions Code section 4712.5. Both parties are bound hereby. Either party may appeal this decision to a court of competent jurisdiction within 90 days.