

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

CLAIMANT,

vs.

NORTH BAY REGIONAL CENTER,

Service Agency.

OAH Case No.: 2017010423

DECISION

A hearing was convened before Michael A. Scarlett, Administrative Law Judge, State of California, Office of Administrative Hearings, on June 22, 2017, in Napa, California.

Jack Bengé, Attorney at Law, appeared on behalf of North Bay Regional Center (NBRC or Service Agency). Claimant's representative, mother, who filed the Fair Hearing Request, failed to appear and no other representative appeared on claimant's behalf.¹

FACTUAL FINDINGS

1. Claimant's mother filed a Fair Hearing Request (FHR) on January 9, 2017, appealing the Service Agency's denial of claimant's eligibility for regional center services. On December 2, 2016, Service Agency issued a Notice of Proposed Action asserting that claimant is not eligible for regional center services because claimant's

¹ Claimant's and Claimant's mother's names are omitted to protect their privacy and the confidentiality of this proceeding.

condition does not constitute a substantial handicap as defined in California Code of Regulations, title 17, section 54001, and under the Lanterman Developmental Disabilities Services Act (Welf. & Inst. Code, § 4500 et seq.)

2. Claimant's hearing was scheduled and noticed for June 22, 2017, after a continuance of the original hearing date and submission of a time waiver by mother. Claimant's mother was properly served with a Notice of Hearing on March 28, 2017, at the address listed on the FHR.

3. Neither claimant's mother, nor any representative on claimant's behalf, appeared at the hearing. On the morning of the hearing, NBRC made multiple attempts to contact claimant's mother by telephone without success, and voice messages were left informing mother of the hearing. Claimant's mother was given until 10:20 a.m. to appear and did not. No evidence in support of claimant's appeal was presented or considered.

LEGAL CONCLUSIONS

Claimant has the burden of proving that she is eligible for regional center services. Claimant's failure to appear and to present evidence in support of her appeal is deemed a withdrawal of the fair hearing request. Accordingly, cause exists to dismiss claimant's appeal of the Service Agency's denial of eligibility.

ORDER

Claimant's appeal is dismissed.

Dated: June 23, 2017

/s/

MICHAEL A. SCARLETT

Administrative Law Judge

Office of Administrative Hearings

NOTICE

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