

BEFORE THE  
OFFICE OF ADMINISTRATIVE HEARINGS  
STATE OF CALIFORNIA

In the Matter of:

CLAIMANT,

v.

REGIONAL CENTER OF THE EAST BAY,

Service Agency.

OAH No. 2018030889

DECISION

Administrative Law Judge Melissa G. Crowell, State of California, Office of Administrative Hearings, heard this matter on April 12, 2018, in San Leandro, California. Natasha Du provided translation services from English to Mandarin and Mandarin to English.

Fair Hearing and Mediation Specialist Mary Dugan appeared on behalf of Regional Center of the East Bay.

Claimant, who was not present at hearing, was represented by her mother.<sup>1</sup>

The matter was submitted on April 12, 2018.

---

<sup>1</sup> The identities of claimant and her parents are concealed to protect claimant's privacy.

## ISSUE

Is Regional Center of the East Bay required to reimburse claimant for dental treatment that cost more than the Medi-Cal Dental (Denti-Cal) rates?

## FACTUAL FINDINGS

1. Claimant is an adult consumer of Regional Center of the East Bay (RCEB). She has diagnoses of cerebral palsy/spastic diplegia, developmental delay and seizure disorder. She lives at home with her parents and her brother, and attends community college.

2. On March 2, 2018, RCEB issued a Notice of Proposed Action advising claimant that it would fund \$1,415 toward the cost of her dental treatments. RCEB gave the following reason for its decision: "RCEB can fund dental treatment costs at the MediCal/DentiCal rates."

3. Claimant filed a timely Fair Hearing Request, in which she requested RCEB pay \$2,500 more toward the cost of the dental treatments. An informal meeting was held on March 26, 2018. Claimant was advised in writing that her request for additional payment was being denied because RCEB could not fund more than the Denti-Cal rate which it was offering to do. This hearing followed.

4. At a date not established by the evidence, claimant was evaluated by her family physician because of pain, infection and an ear ache. She was prescribed antibiotics, and referred to Western Dental for evaluation of her wisdom teeth.

5. Western Dental evaluated claimant on December 27, 2017. That office determined that she needed her wisdom teeth removed (and have some cavities filled), but it declined to treat the wisdom teeth and recommended that she consult with a specialist.

6. That same day, claimant was evaluated by Ryan Jergensen, DDS. He diagnosed claimant's four wisdom teeth as symptomatic with cavities, facial swelling and infection, and recommended extraction. He also diagnosed 17 other teeth with decay and recommended that they be treated. An extraction appointment was made for January 4, 2018.

7. Dr. Jergensen's office removed the infected wisdom teeth on January 4, 2018. The cost of the treatment, with a full payment discount, was \$1,602. Claimant's mother paid this bill in full.

8. Over the course of three days, January 9, 23, and 24, Dr. Jergensen's office placed resin composite fillings on 17 teeth. The cost of this treatment, with a full payment discount, was \$3,798. Claimant's mother paid this bill in full.

9. Claimant has Denti-Cal insurance. Dr. Jergensen's office is not a Denti-Cal provider. The covered rates for dental treatment are much less than the rates charged by Dr. Jergensen's office. The Denti-Cal rate for extraction of four wisdom teeth is \$570; the Denti-Cal rate for the composite fillings is \$845.<sup>2</sup>

10. Claimant did not complete the Individual Program Plan (IPP) planning process or receive RCEB agreement to fund the service before any of the dental treatments were performed.

11. Claimant's mother advised Service Coordinator Chia Ling Liu Yin on December 28, 2017, that claimant's wisdom teeth were infected and needed to be removed and requested that RCEB fund the treatment. She provided Yin with a treatment plan for the teeth removal. Yin referred claimant's mother to the University of the Pacific and Highland Dental Clinic, resources that accept Denti-Cal, and offer sliding scales and payment plans. Yin told claimant's mother that she would consult with the

---

<sup>2</sup> The rate per tooth varies by the extent of the surface filled.

clinical supervisor Lucy Rivello to see if RCEB could fund the treatment. At no time was claimant or her mother advised that RCEB had agreed to fund the dental treatment.

12. Claimant's mother states that she called another Denti-Cal provider but no one picked up the phone. When she did not hear from the regional center by January 4, they went ahead with the extraction. The infection was painful for claimant, and she was already on antibiotics. Claimant's mother was afraid to wait too long because claimant had a fever as well as a history of seizures. Because the dentist recommended treating the decay, and claimant needed follow-up visits for the wisdom teeth extraction, claimant's mother authorized the dental office to move forward with the fillings. Claimant and her mother were happy with the dental office and the dental treatment.

13. Claimant's mother seeks financial assistance from RCEB in addition to the \$1,415 it has agreed to fund. Claimant's mother says she is carrying the charges on her credit card and cannot afford to pay them. Claimant does not have the money to pay for the treatment. Claimant's mother has other expenses associated with claimant's community college classes and supporting the family.

## LEGAL CONCLUSIONS

1. The party asserting a claim generally has the burden of proof in administrative proceedings. (See, e.g., *Hughes v. Board of Architectural Examiners* (1998) 17 Cal.4th 763, 789, fn. 9.) In this case, claimant bears the burden of proving, by a preponderance of the evidence, that RCEB erred by not funding the entire cost of the dental services. (Evid. Code, § 115.)

2. The State of California accepts responsibility for persons with developmental disabilities under the Lanterman Developmental Disabilities Services Act

(Welf. & Inst. Code, 4500 et seq.).<sup>3</sup> The Lanterman Act mandates that an “array of services and supports should be established ... to meet the needs and choices of each person with developmental disabilities ... and to support their integration into the mainstream life of the community.” (§ 4501.) Regional centers are charged with the responsibility of carrying out the state’s responsibilities to the developmentally disabled under the Lanterman Act. (§ 4620, subd. (a).) The Lanterman Act directs regional centers to develop and implement an IPP for each individual who is eligible for regional center services. (§ 4646.) The IPP states the consumer’s goals and objectives and delineates the services and supports needed by the consumer. (§§ 4646, 4646.5, & 4648.)

3. When purchasing services and supports, regional centers are mandated by the Lanterman Act to conform to their purchase of service policies as approved by the Department of Development Services, and to utilize generic services and supports where appropriate. (§ 4646.4, subd. (a).) And in securing needed services and supports to implement an IPP, regional centers are prohibited from using regional center funds “to supplant the budget of any agency that has a legal responsibility to serve all members of the public and is receiving general funds for providing those services.” (§ 4648, subd. (a)(8).) And regional centers are precluded by law from funding services that would otherwise be available from Medi-Cal when the consumer meets the criteria of coverage but chooses not to pursue that coverage. (§ 4659, subd. (c).)

4. Claimant has failed to sustain her burden of proving that RCEB erred when it denied the request to reimburse claimant for dental treatment in an amount in excess of the Medi-Cal Dental rates. The financial circumstances of claimant and her mother

---

<sup>3</sup> All statutory references are the Welfare and Institutions Code, unless otherwise provided.

are sympathetic, but regional centers can only fund services in accordance with the requirements of the Lanterman Act. Claimant has provided no evidence to support a determination that legal error occurred when RCEB determined that it could not fund more than what it had previously offered.

## ORDER

Claimant's appeal is denied.

DATED: April 20, 2018

\_\_\_\_\_/s/\_\_\_\_\_  
\_\_\_\_\_

MELISSA G. CROWELL

Administrative Law Judge

Office of Administrative Hearings

## NOTICE

This is the final administrative decision in this matter. Both parties are bound by this decision. Either party may appeal the decision to a court of competent jurisdiction within 90 days of receiving notice of the decision. (Welf. & Inst. Code, § 4712.5, subd. (a).)