

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

H.S.,

Claimant,

vs.

HARBOR REGIONAL CENTER,

Service Agency.

OAH No. 2012090458

DECISION

Administrative Law Judge Amy C. Yerkey, State of California, Office of Administrative Hearings, heard this matter on October 23, 2012, in Torrance, California.

Gigi Thompson represented the Harbor Regional Center (HRC or regional center or Service Agency).

Desiree S. represented her son H.S. (Claimant)¹ Claimant attended the hearing.

The matter was submitted on October 23, 2012.

ISSUE

The question in this matter is whether the Service Agency should fund for Claimant to attend the day program at "Ability First" located in Long Beach, California.

¹ Initials have been used to protect Claimant's privacy.

EVIDENCE RELIED UPON

Documentary: Service Agency's exhibits 1-8.

Testimonial: Mia Gurri, HRC Program Manager; Claimants' mother.

FACTUAL FINDINGS

1. Claimant is a 28-year-old male who qualifies for regional center services based on a diagnosis of mild mental retardation.

2. In June 2012, Claimant's mother requested that HRC fund for Claimant to attend a day program at Ability First in Long Beach. Claimant's HRC counselor told his mother that she would look into it and get back to her. Claimant's mother did not receive an affirmative response and so she filed the instant fair hearing request.

3. Claimant's fair hearing request, dated September 13, 2012, requested that Claimant be assigned a different HRC counselor, who could assist with Claimant's request to attend Ability First. Prior to the hearing, HRC assigned a different counselor to Claimant, and the parties agreed that this issue has been resolved. Thus, the remaining question was whether HRC would fund for Claimant to attend the Ability First program.

4. Claimant's Individual Family Service Plan (IFSP), which was last revised on October 17, 2012, states that HRC is "in the process of matching for [Claimant] a suitable day program that provides to [sic] balance of community activities and personal skills building."

5. HRC Program Manager Mia Gurri (Gurri) testified at the hearing. Gurri explained that HRC is willing to fund for Ability First in Long Beach, and that they communicated this information to Claimant's mother prior to the hearing. Gurri explained that HRC wants to secure transportation for Claimant before enrolling him in

the program. Claimant's mother inquired whether contract transportation would be an option. Gurri noted that Claimant has chosen a day program that is beyond the ten-mile radius outside Claimant's home. Gurri further explained that when choosing a transportation option, HRC considers what mode of transportation would be most cost-effective and least restrictive for Claimant. Gurri opined that contract transportation would cost at least \$700 per month, whereas Access would cost approximately \$100 per month, and that Access allowed Claimant to maintain some of his independence. Gurri opined that Access transportation will be the best fit for Claimant. Claimant's mother wanted to verify certain information with Access, and HRC assisted her in contacting Access. Gurri represented that the application process for Access may take from 60 to 90 days, and that if Claimant wanted to immediately enroll in Ability First, he would need temporary alternate transportation. HRC discussed several transportation options with Claimant's mother, and it is waiting to hear from her regarding which option she would prefer for Claimant. Once these details are confirmed, HRC will begin funding for Claimant to attend Ability First, in Long Beach.

6. Claimant's mother testified at the hearing. She was initially frustrated that HRC took several months to respond to her requests for a new counselor and funding for the Ability First day program, and that is why she filed the fair hearing request. Claimant's mother was not aware that HRC had agreed to fund for the Ability First program, and she now understands that HRC is awaiting her input regarding transportation options. Claimant's mother offered to personally transport Claimant to and from the day program for 30 days, but she was unsure whether she can continue to do so thereafter. She was informed that she may request contract transportation on a temporary basis if necessary. Claimant's mother also inquired about whether she may be reimbursed for transporting Claimant to the day program, and was informed that she

should discuss these options with Claimant's counselor. Claimant's mother also indicated that she had an appointment with Access transportation to evaluate Claimant, and it was suggested that she inform HRC that she has begun this process.

LEGAL CONCLUSIONS

1. The Lanterman Act, incorporated under Welfare and Institutions Code section 4500 et seq., acknowledged the state's responsibility to provide services and supports for developmentally disabled individuals. It also 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. The Lanterman Act also provides that "[t]he determination of which services and supports are necessary for each consumer shall be made through the individual program plan process. The determination shall be made on the basis of the needs and preferences of the consumer, or when appropriate, the consumer's family, and shall include consideration of a range of service options proposed by individual program plan participants, the effectiveness of each option in meeting the goals stated in the individual program plan, and the cost-effectiveness of each option." (Welf. & Inst. Code, § 4512, subd. (b).)

3. Services provided must be cost effective, and the Lanterman Act requires the regional centers to control costs so far as possible, and to otherwise conserve resources that must be shared by many consumers. (Welf. & Inst. Code, §§ 4512, subd. (b), 4640.7, subd. (b), 4651, subd. (a), 4659, and 4697.)

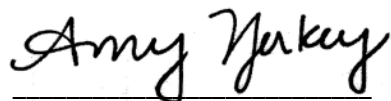
4. A regional center is required to identify and pursue all possible funding sources for its consumers from other generic resources, and to secure services from generic sources where possible. (Welf. & Inst. Code, §§ 4659, subd. (a), 4647, subd. (a), 4646.5, subd. (a)(4)).

5. Claimant's appeal, which requested that HRC fund for him to attend the Ability First day program, is granted. Claimant's IFSP indicates that HRC has agreed to fund for a day program, and HRC has subsequently agreed to fund the Ability First day program in Long Beach, California. Claimant and his family should decide what transportation options they would prefer, and then make their request to HRC. If Claimant is dissatisfied with HRC's decision, Claimant may appeal at that time. Because Claimant has not yet made any specific requests for transportation, HRC has not yet had the opportunity to decide whether it can accommodate Claimant's request, and thus it is not properly part of the instant appeal.

ORDER

Claimant H.S.'s appeal is granted. HRC has agreed to fund for Claimant to attend the Ability First day program in Long Beach, California.

DATED: November 1, 2012



AMY C. YERKEY

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.