

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

JIMMY T.,

Claimant,

and

NORTH LOS ANGELES COUNTY REGIONAL
CENTER,

Respondent.

OAH Case No. 2012100775

DECISION

This matter came on regularly for hearing before Samuel D. Reyes, Administrative Law Judge, Office of Administrative Hearings, on January 31, 2013, in Lancaster, California.

Claimant's mother, Blanca T.,¹ represented Claimant.

Stella Dorian, Fair Hearing Representative, represented North Los Angeles County Regional Center (Regional Center or Service Agency).

Oral and documentary evidence was received at the hearing, and the matter was submitted for decision.

ISSUE

Should Regional Center continue to fund personal assistant services for Claimant at

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

the rate of three hours per day, Monday through Friday?

FACTUAL FINDINGS

1. Claimant is a nine-year-old Service Agency consumer with a qualifying diagnosis of autism. He resides with his mother and five siblings, aged one to 18 years. His mother does not work outside the home, and is Claimant's primary caregiver.

2. Claimant requires constant supervision. He engages in tantrums if he does not get his way, which can occur several times per day. Tantrums can vary in frequency and duration. He hits his siblings, approximately five times per day. He refuses to follow directives. He falls to the floor, kicks things, throws things, and attempts to jump at the top of the staircase.

3. Claimant receives 30 hours per month in respite services. In early 2012, Claimant's mother requested a three-hour per day increase in respite hours to due to increased demands on her time. Her oldest daughter, Cecilia, who suffers from an unspecified psychiatric condition, had just had a baby, which increased the demands on Claimant's mother's time and energy. Claimant's mother wanted to have somebody to watch Claimant while she attended to her granddaughter and the other children. Claimant's mother had also recently lost her father and was being evicted from their home.

4. On February 13, 2012, in recognition of the increased demands on Claimant's mother's time and other stressors, Service Agency agreed to fund three hours of personal assistant services, Monday through Friday, as more a appropriate service than respite for the established needs. However, the funding was limited to a maximum of three months and conditioned on Claimant's mother providing documentation that Cecilia was participating in parenting classes, providing documentation that she had applied for in-home supportive services (IHSS), and signing an addendum to the individual program plan

(IPP) embodying the agreement.

5. The parties executed an Addendum to the IPP on February 16, 2012, and Service Agency commenced funding the personal assistant services. Claimant's mother thereafter informed Service Agency that Cecilia was attending parenting classes and submitted a note from Cecilia's therapist, which stated that Cecilia was participating in a positive parenting skills program with the therapist. On June 18, 2012, Claimant was approved to receive 28.8 hours per month of IHSS.

6. Connections for Care is the vendor providing personal assistant services to Claimant. On March 19, 2012, the agency reported that its staff had not witnessed Claimant engaging in any aggressive behaviors. Service Agency has sought to assess Claimant's behavior to determine if he qualifies for in-home behavioral services, but his mother has not signed the required releases to allow the assessment.

7. A letter from Claimant's therapist, Melody R. Martin, M.A., M.T.F.I. (Martin), was received in evidence. Martin began seeing Claimant in April 11, 2011, to address issues of aggressiveness, destruction of property, unhappiness, temper tantrums, and self-injurious behavior. Claimant also receives therapy and medication management from a psychiatrist. Martin reported that Claimant's behaviors had improved as of November 2012 and that the agency was considering closing the case.

8. In November 2012, the Los Angeles County Department of Children and Family Services removed Cecilia's daughter from the home due to alleged abuse and neglect by Cecilia.

9. Claimant's mother testified at the hearing that Claimant continues to engage in aggressive and self-injurious behaviors and that the services are still needed.

10. On October 10, 2012, Service Agency issued a Notice of Proposed Action, terminating the personal assistant services. Claimant's mother filed a fair hearing request

on October 22, 2012.

LEGAL CONCLUSIONS

1. In enacting the Lanterman Developmental Disabilities Services Act (Lanterman Act), Welfare and Institutions Code section 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.) The Lanterman Act gives regional centers, such as Service Agency, a critical role in the coordination and delivery of services and supports for persons with disabilities. (Welf. & Inst. Code, § 4620 et seq.) Thus, regional centers are responsible for developing and implementing individual program plans, for taking into account consumer needs and preferences, and for ensuring service cost-effectiveness. (Welf. & Inst. Code, §§ 4646, 4646.5, 4647, and 4648.)

2. Welfare and Institutions Code section 4512, subdivision (b), defines the services and supports that may be funded, and the process through which such are identified, namely, the IPP process, a collaborative process involving consumer and service agency representatives. "The 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 plan participants, the effectiveness of each option in meeting the goals in the individual program plan, and the cost-effectiveness of each option. ..." (*Id.*)

3. In this case, Claimant's mother and Service Agency, through the IPP process,

agreed to the funding of personal assistant services for a limited period due to increased stressors and demands on Claimant's mother's time. The three-month temporary funding has extended through one year and circumstances have changed. Cecilia has had the opportunity to participate in parenting classes and her daughter is no longer in Claimant's home. Claimant's behaviors appear to have improved, as reported by the treating therapist and personal assistant services provider. Termination of the personal assistant services at this time is therefore appropriate.

4. Accordingly, by reason of factual finding numbers 1 through 10 and legal conclusion numbers 1 through 3, Service Agency may terminate the funding of three hours per day, Monday through Friday, for personal assistant services.

ORDER

Claimant's appeal is denied and Service Agency may terminate the funding of three hours per day, Monday through Friday, for personal assistant services.

Dated: February 8, 2013

_____/s/____

Samuel D. Reyes

Administrative Law Judge

Office of Administrative Hearings

NOTICE

This is the final administrative decision in this matter and both parties are bound by this Decision. Either party may appeal this Decision to a court of competent jurisdiction within 90 days.