

BEFORE THE
OFFICE OF ADMINISTRATIVE
HEARINGS STATE OF CALIFORNIA

In the Matter of:

CLAIMANT

vs.

NORTH BAY REGIONAL CENTER,

Service Agency.

OAH No. 2014080893

DECISION

Administrative Law Judge Diane Schneider, State of California, Office of Administrative Hearings, heard this matter on October 1, 2014, in Napa, California.

Claimant was represented by his mother.

G. Jack Benge, Attorney at Law, represented North Bay Regional Center, the service agency.

The matter was submitted for decision on October 1, 2014.

ISSUE

May NBRC discontinue funding Gateway Transportation service, when a less expensive alternative exists?

FACTUAL FINDINGS

1. North Bay Regional Center (NBRC) personnel Federal Revenues Department Manager January Bastian Crane and claimant's mother testified at the hearing. Their testimony and the documentary evidence established the facts set forth below.

2. Claimant is a 26-year-old client of NBRC by reason of his diagnoses of

intellectual disability, autism, and epilepsy. Claimant lives with his parents in Suisun. He attends an adult day program which is .7 miles from his home.

3. Claimant's mother is his In Home Support Services (IHSS) worker. Among other duties, claimant's mother drives claimant to his various appointments. During the first half of 2013, and possibly before then,¹ claimant's mother drove claimant to and from his day program. (Claimant's father is legally blind; as a result, claimant's mother is the sole driver in the family.)

4. In July 2013,² claimant's family requested that NBRC provide transportation to claimant's day program because his mother was unavailable due to her participation in an on-line course. NBRC located a provider, Gateway Transportation (Gateway), but the cost of Gateway exceeded NBRC's rate guidelines. In a letter to claimant's parents dated July 2, 2013, NBRC Executive Director Bob Hamilton informed claimant's parents that NBRC would agree to purchase transportation services from Gateway for six months.

5. In an Individual Program Plan (IPP) Addendum dated December 20, 2013, NBRC further agreed to make a "one-time exception to the cost effectiveness guidelines and will authorize Gateway Transportation up to \$26 per day round[-]trip transportation until 6/30/14." Thereafter, Gateway transported claimant to and from his day program at a cost of \$13 each way, for a total cost of \$26 per day.

6. As the time approached for the termination of Gateway's service, claimant's

¹ The record did not establish when claimant's mother first began transporting him to his day program.

² The record did not establish the exact date on which claimant's parents made their transportation request to NBRC.

service coordinator worked with the family to find a more cost-effective alternative. In July, claimant's mother informed the service coordinator that she was no longer participating in an on-line class. The service coordinator suggested that she become a vendorized transportation provider. This would enable claimant's mother to be reimbursed for driving claimant to his day program. She agreed, but later changed her mind and declined to become vendorized.

7. In a Notice of Proposed action dated August 26, 2014, NBRC notified claimant of its intention to discontinue providing claimant transportation through Gateway because it is not a cost-effective use of NBRC funds.

8. NBRC has extended Gateway's services through October 31, 2014. NBRC hopes that claimant's mother will complete the necessary paperwork to enable her to become a vendorized transportation provider.

9. Claimant's mother wants Gateway to continue providing transportation to claimant based upon the severity of claimant's disabilities. She emphasizes that claimant is extremely disabled and has problems walking. Although claimant's mother acknowledges that her schedule no longer prohibits her from driving claimant to his program, she believes that what she does with her time is a private matter and is not relevant to resolving the issue at hand.

LEGAL CONCLUSIONS

1. The State of California accepts responsibility for persons with developmental disabilities under the Lanterman Developmental Disabilities Services Act (Act). (Welf. & Inst. Code, § 4500 et seq.)³ Regional centers are charged with the responsibility of carrying out the state's responsibilities to the developmentally disabled under the Act. (§ 4620, subd. (a).) The Act mandates that an "array of services and supports should be established . . . to meet the needs and choices of each person with

³ All citations are to the Welfare and Institutions Code.

developmental disabilities . . . and to support their integration into the mainstream life of the community.” (§ 4501.)

2. While the Act affirms the importance of honoring the consumer’s choices and preferences, these choices and preferences must be balanced against competing factors such as cost. Indeed, as the Act repeatedly makes clear, regional centers must select the most cost-effective method of providing services to consumers. (§ 4646, subd. (a); § 4512, subd. (b); § 4648, subd. (a)(6)(E).)

3. In the instant case, Gateway’s services exceed NBRC’s cost guidelines. In late 2013, NBRC used Gateway’s service on a temporary basis, however, because an alternate and less costly mode of transportation did not exist. Presently a more cost-effective alternative exists in that claimant’s mother is available to drive him the short distance to his day program. While it is acknowledged that claimant has a multitude of disabilities that make it challenging to care for him, the evidence did not establish that such disabilities impair the ability of claimant’s mother to transport him. Indeed, she currently transports him to his medical appointments. Under the law, the fact that claimant has multiple disabilities does not outweigh NBRC’s obligation to provide services in the most cost-effective manner possible.

Claimant’s mother is understandably disappointed by the possibility that Gateway’s services will be discontinued. Clearly, she works hard in attending to claimant’s needs. Nonetheless, to require NBRC to continue paying for Gateway’s services when a less expensive alternative exists would contravene the express provisions of the Act which require NBRC to provide services in the most cost-effective manner possible.

ORDER

Claimant’s appeal is denied.

DATED: 10/9/14

_____/s/____

DIANE SCHNEIDER

Administrative Law Judge

Office of Administrative Hearings

NOTICE

This is the final administrative decision in this matter. Judicial review of this decision may be sought in a court of competent jurisdiction within ninety (90) days.