

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

CLAIMANT

vs.

WESTSIDE REGIONAL CENTER,

Service Agency.

OAH No. 2015030450

DECISION

Administrative Law Judge Angela Villegas, State of California, Office of Administrative Hearings, heard this matter on May 4, 2015, in Culver City, California.

Lisa Basiri, Fair Hearing Specialist, represented Westside Regional Center (WRC).

Claimant's father represented Claimant.¹

Evidence was received, and the matter was submitted on May 4, 2015.

ISSUE

Whether WRC must pay, in whole or part, for Claimant to attend the Ezra program at Camp Ramah this summer.

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¹ Claimant's name and the names of Claimant's parents are not disclosed, in order to protect their privacy. Claimant's father and mother are limited conservators of Claimant's person, by virtue of which Claimant's father was Claimant's authorized representative in this proceeding.

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EVIDENCE RELIED UPON

Documentary: WRC's exhibits 1 through 7. Testimonial: Lisa Basiri, Fair Hearing Specialist, WRC; Claimant's father.

FACTUAL FINDINGS

1. Claimant is a 19-year-old male who qualifies for regional center services based on a diagnosis of autism "and related delays." (Ex. 5.) He lives with his parents and siblings.

2. Claimant is a high-school graduate. WRC provides Claimant with a day program at Exceptional Minds, where he is learning computer animation and receives community based instruction. His supervisors there have praised his technical and artistic skills, but other workplace skills such as cooperation, collaboration, social awareness, and the like are lagging behind because of Claimant's autism. WRC provides Claimant with a personal attendant for 108 hours per month; the personal attendant also provides community based instruction. In addition, WRC furnishes 14 hours per month of respite care.

3. Claimant's Exceptional Minds program will not be available this summer, and Claimant will have to find a new vocational training and community based instruction program to attend while Exceptional Minds is on hiatus.

4. On February 20, 2015, WRC rejected Claimant's request that it fund his participation in the Ezra program at Camp Ramah this summer, and formally notified Claimant's parents of its decision. Claimant's father filed a Fair Hearing Request on March 5, 2015. On March 23, 2015, after an informal meeting, WRC reiterated its decision not to fund Claimant's participation in the Ezra program.

5. Camp Ramah is a traditional summer camp, with a focus on Jewish religion and heritage. In addition to the camp's program for typically-developing individuals, Camp Ramah also has the Tikvah program, which is adapted for developmentally disabled people. Within the Tikvah program are the Amitzim program, for developmentally disabled adolescents from 11 to 17 years old, and the Ezra program, for developmentally disabled young adults from 18 to 22 years old. Participants in Camp Ramah's Tikvah program "are included in all the programs at Camp Ramah. . . . [They] have fun, make friends, and learn about Jewish things." (Ex. 4.)

6. The Ezra program, however, allows "young adults with disabilities [to] come to camp to work, learn new vocational skills, build their independent living skills and be a part of the staff community of camp. This is an eight week, residential, fully immersive experience as a staff member of Camp Ramah[.]" (Ex. 3.)² "While the Ezra program is based at a camp, its primary focus is as a vocational training program. Just as typical campers go on to become counselors, campers with developmental disabilities become the Ezra Staffers. . . . They are part of the staff, but with appropriate supports in place. They have job coaches and living skills coaches[.]" (*Id.*)

7. In the Ezra program, participants' primary activity is performing a job at the Camp or in the nearby town of Ojai, California. The jobs available to participants include working in the camp garden or canteen, caring for the children of camp staff, helping with the camp's art programs, and working at the local animal shelter or library in Ojai. Participants usually start with one job and finish with another, to provide them with breadth of experience. They are required to manage their own schedules, and attend daily meetings to discuss their experiences during the work day. Regular camp

² The Ezra program is described variously as being seven and eight weeks long. (Exs. 3 and 4.) The weight of the evidence indicated it is a seven-week program.

staff members supervise the participants, but the goal of the program is to increase independence and build workplace skills such as cooperation, reliability, and communication. Each participant lives in a supervised apartment with three other participants.

8. In the past, Claimant attended Camp Ramah as a camper; last year, he attended the “vocational training program[,]” (ex. 3), though the evidence did not disclose whether this was the Ezra program another aspect of the Tikvah program. Claimant’s family has previously paid the full cost of Camp Ramah for Claimant, but this year feels that the nature of the Ezra program makes it appropriate for WRC sponsorship.

9. WRC has proposed local programs, including LA Goal and Studio West, as summer replacements for Claimant’s Exceptional Minds program. Either of those two programs would provide Claimant with training and instruction similar to what he receives from Exceptional Minds.

10. Camp Ramah is vendored with WRC as a camp, not as a provider of vocational training or community based instruction, and it does not provide reports on the vocational training progress of those who attend the camp under WRC sponsorship. Camp Ramah’s Ezra program costs \$4,520 per two-week session, and since the program is seven weeks long, participants must purchase two sessions, for a total cost of \$9,040. The evidence did not disclose the portion of the cost attributable to vocational training and community based instruction, versus the portion that would cover Claimant’s room, board, and non-vocational activities.

11. Meanwhile, Claimant’s Exceptional Minds program costs \$1,170 per month, and his personal attendant costs \$1,429.92 per month. Hence, WRC’s current monthly cost for Claimant’s vocational training and community based instruction is \$2,599.92. The cost of the summer replacement programs proposed by WRC, LA Goal or

Studio West, would be comparable to Exceptional Minds. Based on these figures, the average cost per week of Exceptional Minds, or another similar local program, is \$268.97.³ The average cost per week of Claimant's personal attendant is \$328.72.

12. Claimant's father feels the Ezra program, rather than a local summer program, is best suited to Claimant's needs. Claimant is ambitious, goal-oriented, and eager to improve in the areas where he currently has weakness, so that he can become more job-ready. The Ezra program will require Claimant to live away from home, which will develop greater independence than would be the case if Claimant stayed home and enrolled in a local summer program. In addition, both of Claimant's brothers have been counselors at Camp Ramah, and while Claimant's disability prevents him from being a counselor, the Ezra program would provide him with an analogous experience. Moreover, the Ezra program would enable Claimant to interact not only with other developmentally disabled peers, but also with non-disabled individuals, so that it would more closely resemble a real workplace.

LEGAL CONCLUSIONS

1. Claimant had the burden to prove, by a preponderance of the evidence, his entitlement to have the Camp Ramah Ezra program funded by WRC. (Evid. Code, §§ 115; 500.) Claimant carried his burden as to a portion of the cost of the program.

2. Since July 1, 2009, the Lanterman Developmental Disabilities Services Act (Lanterman Act), specifically Welfare and Institutions Code (WIC) section 4648.5, has prohibited regional centers from funding "[c]amping services and associated travel expenses." (WIC, § 4648.5, subd. (a)(1).) Camp Ramah is, generally speaking, a typical summer camp (Factual Finding 5), and if Claimant wished to attend Camp Ramah merely

³ Calculations assume there are 4.35 weeks per month.

for its “camp” activities, WIC section 4648.5 would prohibit WRC from sponsoring his attendance. Claimant has not sought assistance with the cost of his previous attendance at Camp Ramah, indicating his family’s understanding of the limits of WRC’s ability to provide assistance in that regard. (Factual Finding 8.)

3. WIC section 4648.5 does not, however, prohibit WRC from funding vocational training and/or community based instruction, and WRC does not dispute that it must provide Claimant with such services. Indeed, WRC currently does so through Exceptional Minds and Claimant’s personal attendant (Factual Finding 2), and intends to continue providing such services over the summer, including placing Claimant with another vocational training/community based instruction vendor while Exceptional Minds is on hiatus. (Factual Findings 3, 9, and 11.)

4. The Ezra program, unlike the traditional summer camp aspects of Camp Ramah, provides work experience, and community and vocational development activities, in place of recreational activities. (Factual Finding 6 and 7.) Thus, Camp Ramah’s Ezra program is not wholly a “camping service”; rather, it consists primarily of vocational training and community based instruction, which happen to be provided in a camp setting. (*Id.*)

5. Consequently, while WIC section 4648.5 prohibits WRC from funding the traditional summer camp aspects of Camp Ramah, it does not prohibit WRC from funding the vocational training and community based instruction provided by Camp Ramah’s Ezra program. Although the evidence did not disclose the exact proportion of the cost of the Ezra program attributable to vocational training and community based instruction (Factual Finding 10), the descriptions provided of the Ezra program indicated that such training and instruction are its principal components. (Factual Findings 6 and 7; Legal Conclusion 4.) Hence, the services Claimant will receive from the Ezra program are functionally equivalent to those he currently receives from Exceptional Minds and his

personal attendant. (Factual Findings 2, 6, and 7.)

6. The reasonable cost of vocational training and community based instruction for Claimant is reflected in the amount WRC currently pays for those services as provided by Exceptional Minds (or a similar provider) and Claimant's personal attendant: i.e., \$597.69 per week. (Factual Finding 11.) Hence, WIC section 4648.5 does not prohibit WRC from funding Claimant's attendance at Camp Ramah's Ezra Program in the amount of \$597.69 per week for the seven weeks of the program, as a summer replacement for Exceptional Minds and Claimant's personal attendant.

7. WRC argued that, under WIC section 4646, subdivision (a), it can fund only those programs and services that are cost-effective, and because Camp Ramah's Ezra program is so much more expensive than other vocational training and community based instruction programs (Factual Findings 10 and 11), it is not cost-effective.

8. But WIC section 4646, subdivision (a), as well as numerous other parts of the Lanterman Act, mandate consideration of "the needs and preferences of the individual and the family, where appropriate, as well as promoting community integration, [and] independent, productive, and normal lives[.]" Camp Ramah's Ezra program reflects the preference of Claimant and his parents for the program they believe will best address Claimant's need for summertime vocational training and community based instruction aimed at fostering independence and community integration.⁴ (Factual Findings 1, 4, and 12.)

9. WRC's concerns about the cost-effectiveness of Camp Ramah's Ezra program would be more compelling if the entire cost of the program were to be paid by

⁴ It is appropriate in this instance to consider the preferences of both Claimant and his parents, since Claimant's parents have the ability, as his limited conservators, to make decisions for him.

WRC. But since WRC will be required to sponsor Claimant's attendance only to the extent it already funds his vocational training and community based instruction, those concerns are alleviated. The fact that Camp Ramah's vendor status with WRC has not been updated to reflect that it provides vocational training and community based instruction, through its Ezra program, for individuals Claimant's age (Factual Finding 10) should not prevent Claimant from accessing those services with WRC's assistance.

10. For all of these reasons, WRC must assist Claimant in paying for the Ezra program, but only in the same amount it normally pays for his vocational training and community based instruction: specifically, \$597.69 per week. (Factual Finding 11.) The Ezra program will provide those services to Claimant for its seven-week duration.⁵ (Factual Findings 6, 7, and 10.) Seven weeks times \$597.69 totals \$4,183.83, which is the amount WRC must provide toward Claimant's attendance at Camp Ramah's Ezra program.

ORDER

1. Claimant's appeal is granted.
2. Westside Regional Center shall pay \$4,183.83 toward Claimant's participation in the Ezra program of Camp Ramah during summer 2015.

⁵ The evidence indicated that Camp Ramah charges per four-week session, of which the Ezra Program encompasses two. (Factual Finding 10.) The evidence also indicated, however, that the Ezra Program itself is only seven weeks long. (Factual Findings 6 and 10.) Thus, the eighth week was not shown to be part of the Ezra Program, and WRC need not fund any portion of it.

Dated: May 11, 2015

/s/

ANGELA VILLEGAS

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.