

BEFORE THE  
OFFICE OF ADMINISTRATIVE HEARINGS  
STATE OF CALIFORNIA

In the Matter of :

CLAIMANT,

Claimant,

vs.

SAN GABRIEL/POMONA REGIONAL  
CENTER,

Service Agency.

OAH No. 2015050995

DECISION

Matthew Goldsby, Administrative Law Judge with the Office of Administrative Hearings, heard this matter on November 17, 2015, in Pomona, California.

Daniela Santana, Fair Hearing Manager, appeared and represented the San Gabriel/Pomona Regional Center (the Service Agency).

Claimant's foster mother,<sup>1</sup> claimant's duly appointed guardian, appeared and represented claimant, who was not present.

Oral and documentary evidence was received. The record was closed and the matter was submitted for decision at the conclusion of the hearing.

STATEMENT OF ISSUES

The issue in this matter is whether the Service Agency is required to provide

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<sup>1</sup> Claimant and his foster mother are identified by title, not by name, in order to protect their privacy.

funding for claimant to attend summer camp.

## EVIDENCE CONSIDERED

*Documents:* Service Agency's Exhibits 1-6.

*Testimony:* Daniela Santana, Fair Hearing Manager; claimant's foster mother.

## FACTUAL FINDINGS

1. Claimant is a 10-year-old boy with a diagnosis of Mild Intellectual Disability. On November 6, 2014, the Los Angeles County Department of Children and Family Services (DCFS) placed claimant in the care of his foster mother, who also cares for three other foster children.

2. The Service Agency issued a Notice of Proposed Action on April 22, 2015. The Service Agency denied claimant's request for summer camp services because, effective July 28, 2009, it no longer has "authority to fund camping services, social recreational activities, and non-medical therapies." (Ex. 1.) On May 14, 2015, claimant's foster mother filed a Fair Hearing Request on behalf of claimant. All jurisdictional requirements have been met.

3. Claimant's most recent Individualized Program Plan (IPP), dated March 4, 2015, reflects that claimant has achieved independent functioning in various daily living skills, such as bathing, clothing, and feeding. Although he has difficulties in articulation, claimant is able to communicate in complete sentences.

4. However, claimant exhibits severe maladaptive behaviors, and is prone to violent outbursts. He kicks and hits others, screams, and cries loudly. He has threatened to break things and has caused minor property damage. His behavior is impulsive and spontaneous, and no apparent stimulus triggers the outbursts. The goals stated in the IPP include programming that will reduce claimant's aggression and inappropriate social behaviors, and enable the foster mother to take breaks from the specialized care and

supervision required by claimant.

5. The Service Agency is currently funding Intensive Behavioral Health Treatment to address claimant's behavioral needs. Claimant receives 44 hours of direct intervention services and 10 hours of supervision. The Service Agency is also funding 16 hours per month of in-home respite services. DCFS is funding claimant's residential placement. The school district is providing special education services.

6. During the summer of 2015, claimant's foster mother paid to send claimant to a five-day camp at YMCA. However, the YMCA staff lacked training to handle claimant's special needs. During the course of camp activities, claimant became frustrated and tried to stab another child with a fork.

7. Claimant's foster mother inquired with other providers of summer camps to explore whether a more appropriate program was available for claimant's special needs. Camp Paivika is a summer camp program offered by Ability First, an organization that trains its staff to redirect certain maladaptive behaviors. Camp attendees participate in swimming, kayaking, archery, board games, camp fires, and other similar activities. The organization is not vendored by the Service Agency as a behavioral program.

8. DCFS provides funding for claimant's foster siblings to attend summer camp, but those children do not have special needs. Claimant's foster mother has asked the Service Agency to provide funding for claimant to attend summer camp at Camp Paivika because she believes that claimant will benefit from the camp activities. Claimant presented no evidence to show that attending summer camp is a primary or critical means for ameliorating the physical, cognitive, or psychosocial effects of Mild Intellectual Disability, or necessary to enable claimant to remain in his home.

## LEGAL CONCLUSIONS

1. The Service Agency's authority to purchase camping services was suspended effective July 1, 2009. (Welf. & Inst. Code, § 4648.5, subd. (a).) An exemption

may be granted in extraordinary circumstances in which the Service Agency determines that the service is a primary or critical means for ameliorating the physical, cognitive, or psychosocial effects of the consumer's developmental disability, or the service is necessary to enable the consumer to remain in his or her home and no alternative service is available to meet the consumer's needs. (Welf. & Inst. Code, § 4648.5, subd. (c).)

2. The determination of which services and supports are necessary for each consumer shall be made through the IPP process. (Welf. & Inst. Code, § 4512.) 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 IPP participants, the effectiveness of each option in meeting the goals stated in the IPP, and the cost-effectiveness of each option. (Welf. & Inst. Code, § 4512, subd. (b).)

3. Claimant bears the burden of proof as the party seeking government benefits or services. (*Lindsay v. San Diego Retirement Bd.* (1964) 231 Cal.App.2d 156.) The standard of proof in this case is the preponderance of the evidence because no law or statute, including the Lanterman Act, requires otherwise. (Evid. Code, § 115.)

4. Claimant has failed to prove by a preponderance of the evidence that the Service Agency should be required to fund his attendance at summer camp. The Lanterman Act expressly prohibits funding the requested service and the statutory exemption is inapplicable under the circumstances. Although attendance at summer camp may benefit claimant, attending summer camp is not a primary or critical means for ameliorating the physical, cognitive, or psychosocial effects of claimant's developmental disability. Attending summer camp is unnecessary to enable claimant to remain in his home.

5. The Service Agency made its determination through the IPP process and denied summer camp services on the basis of the needs and preferences of claimant and in consideration of a range of service options proposed by the IPP team. Claimant has failed to meet his burden to prove that he is entitled to funding for the requested services.

## ORDER

Claimant's appeal is denied. The Service Agency is not required to provide funding for claimant's attendance at summer camp.

DATED: November 24, 2015

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MATTHEW GOLDSBY

Administrative Law Judge

Office of Administrative Hearings

## NOTICE

This is the final administrative decision. This decision binds both parties. Either party may appeal this decision to a court of competent jurisdiction within 90 days.