

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

CLAIMANT

and

INLAND REGIONAL CENTER,

Service Agency.

OAH No. 2015071327

DECISION

Administrative Law Judge Roy W. Hewitt, Office of Administrative Hearings, State of California, heard this matter in San Bernardino, California, on October 20, 2015.

Claimant's father represented claimant, who was not present for the hearing.

Leigh-Ann Pierce, Consumer Services Representative, Fair Hearings and Legal Affairs, represented Inland Regional Center (IRC).

ISSUE

Should IRC be required to pay for claimant's orthodontic treatment?

FACTUAL FINDINGS

1. Claimant, a 22-year-old male, receives IRC services based on a diagnosis of mild intellectual disability. Claimant lives with his family and currently receives the following services: A day program through BEST Opportunities and transportation to the program; Social Security in the amount of \$800 per month; and 188 hours per month of In Home Supportive Services (IHSS), with his mother as the provider.

2. In January of 2007, claimant was examined by Steven R. Brown, D.D.S.,

M.S.D., P.C., a specialist in orthodontics. Claimant was seen as a Medi-Cal patient. Claimant's condition was described as follows: Class II malocclusion; full overbite; missing teeth; maxillary and mandibular crowding; deep bite with lower teeth touching upper palate; full appliances recommended for 24 months; class II elastics to open bite so teeth do not further destroy tissue; upper and lower retainers; and possible bridge or implant to replace missing teeth. (Exh. 11).

3. Dr. Brown submitted claimant's dental records, including "study model" impressions to Medi-Cal for approval. Medi-Cal concluded that claimant's request for orthodontic coverage did not meet the Medi-Cal criteria for coverage, so his request was denied.

4. On May 5, 2015, claimant underwent a dental examination at Victor Valley Dental Specialties. Based on a "visual examination only," claimant's cost for orthodontic treatment was estimated to be \$2,679. Those payments could be made over a 30 month period at the rate of \$89.30 per month.

5. On June 25, 2015, claimant's father telephoned IRC and requested that IRC pay for claimant's orthodontic treatment because Medi-Cal had denied coverage.

6. By letter, dated June 25, 2015, IRC notified claimant that his request that IRC pay for his orthodontic treatment had been denied. The denial was based primarily on the following: "It is not uncommon for individuals to have a share of cost for dental procedures. If there is a share of cost, your SSI benefits is a financial resource available to you"; "the urgency and level of need for dental treatment is also considered"; "your request for orthodontia is considered to be only cosmetic and not a medically necessary service"; and "orthodontia treatment is not treatment related to alleviating your developmental disability." (Exh. 1)

7. On July 21, 2015, claimant's father filed a fair hearing request on claimant's behalf, and the instant hearing ensued.

8. IRC witnesses testified that the orthodontic procedures claimant is requesting are not “medically necessary procedures;” they are not treatments designed to alleviate claimant’s developmental disability; and, respondent is an adult, he lives at home, and he is receiving \$800 per month in SSI benefits, therefore, he has the ability to pay the \$89.50 per month estimated costs for the orthodontic treatments.

9. Claimant’s father testified that he consulted with several different orthodontists and he was told that claimant’s dental problems “could affect his speech as he gets older;”¹ therefore, this is a severe case, and claimant needs the orthodontic work done. Furthermore, claimant’s father asserted that the \$800 per month of SSI benefits is “not enough to pay for [claimant’s] basic needs.”

LEGAL CONCLUSIONS

1. In enacting the Lanterman Act (Welf. & Inst. Code, § 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.)

2. The Lanterman Act gives regional centers 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 (IPP), for taking into account consumer needs and preferences, and for ensuring service cost-effectiveness. (Welf. & Inst. Code, §§ 4646, 4646.5, 4647, and 4648.)

¹ This hearsay testimony was not supported by any other evidence; therefore, it was not given any weight.

3. Welfare and Institutions Code section 4512, subdivision (b), defines the services and supports that may be funded and sets forth the process through which such are identified, namely, the IPP process, a collaborative process involving consumer and service agency representatives:

'Services and supports for persons with developmental disabilities' means specialized services and supports or special adaptations of generic services and supports directed toward the alleviation of a developmental disability or toward the social, personal, physical, or economic habilitation or rehabilitation of an individual with a developmental disability, or toward the achievement and maintenance of independent, productive, normal lives. 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, where 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
(Underlining added.)

ANALYSIS

4. IRC's assessment of claimant's request was correct. No evidence was presented to establish that claimant's orthodontic needs are medically necessary, as

opposed to cosmetic in nature; that the orthodontic work is "directed toward the alleviation" of claimant's developmental disability; or that the work is directed toward the social, personal, physical, or economic habilitation or rehabilitation of claimant, or toward the achievement and maintenance of an independent, productive, normal life for claimant. Consequently, the orthodontic work requested by claimant is not a "service" or "support" within the definitions contained in the Lanterman Act; therefore, IRC's denial of funding was appropriate.

ORDER

IRC's decision to deny claimant's request for orthodontic procedures is upheld and, claimant's appeal is denied.

Dated: November 3, 2015

_____/s/_____

ROY W. HEWITT

Administrative Law Judge

Office of Administrative Hearings