

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of the Eligibility of:

CLAIMANT,

And

INLAND REGIONAL CENTER,

Service Agency.

OAH No. 2017031248

DECISION

Administrative Law Judge Roy W. Hewitt, Office of Administrative Hearings, State of California, heard this matter in San Bernardino, California on May 9, 2017.

Claimant's mother participated in the hearing telephonically and represented claimant.

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

ISSUE

Must IRC perform an intake and assessment due to claimant's assertion that he qualifies for regional center services under the category of Intellectual Disability?

FACTUAL FINDINGS

JURISDICTION

1. Claimant, a 17-year-old male, contacted IRC and requested an intake evaluation. After reviewing claimant's medical records and past evaluations, the IRC

interdisciplinary team concluded that: “. . . no ‘intake’ services can be provided at this time, because the records did not show that [claimant] has a disability that qualifies him to receive IRC services.” (Exh. 1) Claimant timely filed a Fair Hearing Request and the instant hearing ensued.

EVIDENCE CONCERNING CLAIMANT’S CONDITION(S)

2. Dr. Michelle M. Lindholm, Ph.D., BCBA-D (Board Certified Behavioral Analyst) the IRC Staff Psychologist who performed a complete records review concerning claimant, testified that the information contained in claimant’s records revealed that he does not have Intellectual Disability or any other qualifying, substantially handicapping, condition.

Claimant’s Records

3. In a September 11, 2013, letter, Kapil Arya, M.D., of Memphis Neurology, wrote:

To Whom it May Concern:

Please be advised that [claimant] is under my care for a diagnosis of ADHD [Attention Deficit Hyperactivity Disorder] and Encephalopathy . . . [claimant] has inattention and impulse control issues. . . . (Exh. 10.)

4. In a January 5, 2015, letter, Kathleen Nichole Jalandoni, M.D., of Memphis Neurology, wrote:

To Whom it May Concern:

Please be advised that [claimant] is under my care for a diagnosis of ADHD and READING DISORDER. . . . (Exh. 9, capitalization in original.)

5. In a February 22, 2016, in an Arkansas Department of Education Hearing Officer's Decision and Order, the Hearing Officer made the following pertinent "Findings of Fact":

1. [Claimant] is currently an eleventh grade student at Kipp Delta College Preparatory School
2. [Claimant] is a student with a disability . . . and has diagnoses of Attention Deficit Hyperactivity Disorder, ("ADHD"), Reading Disorder, Written Expression Disorder, Dyseidetic Dyslexia, Mood Disorder, and Visual-Spatial Impairment.
3. Dr. Rebecca West, a psychologist, conducted a comprehensive evaluation of [claimant] on September 9, 2015. Dr. West's report contained, among other things, the following diagnoses: Reading Disorder, by history; Disorder of Written Expression – Dyseidetic Dyslexia.
4. Dr. West diagnosed [claimant] with a Specific Learning Disability in Reading and Written Expression. . . . (Exh. 6)

6. On September 30, 2016, claimant underwent a Psychological Evaluation. As part of the evaluation, claimant was administered the Wechsler Adult Intelligences Scale – Fourth Edition. According to Dr. Lindholm, claimant's composite scores were "not indicative of DD [developmental disorder]." (Exh. 7)

CLAIMANT'S EVIDENCE

7. Claimant presented no evidence to support his claim that IRC should perform an intake evaluation of him.

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. Welfare and Institutions Code section 4512, subdivision (a), defines developmental disability as follows:

'Developmental disability' means a disability that originates before an individual attains age 18 years, continues, or can be expected to continue, indefinitely, and constitutes a substantial disability for that individual . . . [T]his term shall include intellectual disability, cerebral palsy, epilepsy, and autism. This term shall also include disabling conditions found to be closely related to intellectual disability or to require treatment similar to that required for individuals with an intellectual disability, but shall not include other handicapping conditions that are solely physical in nature.

3. Welfare and Institutions Code section 4642, subdivision (a)(1) provides, in part: "Any person believed to have a developmental disability . . . shall be eligible for initial intake and assessment services in the regional center." (Underline added.)

EVALUATION

4. The only evidence presented established that claimant does not have a developmental disability. Consequently, IRC properly denied his request for intake assessments and services.

ORDER

Claimant's appeal is denied.

Dated: May 19, 2017

ROY W. HEWITT

Administrative Law Judge

Office of Administrative Hearings

NOTICE

This is a final administrative decision pursuant to Welfare and Institutions Code section 4712.5. Both parties are bound hereby. Either party may appeal this decision to a court of competent jurisdiction within 90 days.