

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

CLAIMANT,

v.

WESTSIDE REGIONAL CENTER,

Service Agency.

OAH No. 2017040350

DECISION

Carla L. Garrett, Administrative Law Judge (ALJ), Office of Administrative Hearings, State of California, heard this matter on May 30, 2017, in Culver City, California.

Lisa Basiri, Fair Hearing Coordinator, represented the Westside Regional Center (WRC or Service Agency). Claimant's mother (Mother) represented Claimant, who was present at hearing.¹

Oral and documentary evidence was received, the record was closed, and the matter was submitted for decision on May 30, 2017.

ISSUE

Must the Service Agency retain Claimant as a client, even though Claimant and his family have relocated to a home outside of the Service Agency's catchment area?

¹ Names are omitted to protect the privacy of the parties.

FINDINGS OF FACT

1. Claimant is a nine-year-old boy who lives with his parents and younger sister in Redondo Beach, California, outside of the Service Agency's catchment area. Claimant, who is autistic and eligible for services pursuant to the Lanterman Developmental Disabilities Services Act (Lanterman Act), California Welfare and Institutions Code section 4500, et seq.,² lived previously in El Segundo, California within the Service Agency's catchment area, until December 2016.

2. The Service Agency's catchment area includes Bel Air, Beverly Hills, Calabasas, Culver City, El Segundo, Gardena, Hawthorne, Inglewood, Lawndale, Lennox, Los Angeles, Malibu, Marina Del Rey, Mar Vista, Pacific Palisades, Playa Del Rey, Santa Monica, Topanga Canyon, Venice, Westchester, and West Los Angeles. The Service Agency's catchment area does not include Redondo Beach. Redondo Beach is within Harbor Regional Center's (Harbor) catchment area. (Exhibit 8.)

3. On March 21, 2017, after Mother had advised Claimant's service coordinator that her family had moved from El Segundo to Redondo Beach, the Service Agency sent Mother and Claimant's father (Father) (collectively, Parents) a letter advising that it was transferring Claimant's case to Harbor, effective May 1, 2017. (Exhibit 2.) Pursuant to the terms of his October 17, 2016 Individual Program Plan (IPP), Claimant was not currently receiving services from the Service Agency.

4. On March 28, 2017, in response to the Service Agency's decision to transfer Claimant's case to Harbor, Mother filed a Fair Hearing Request on Claimant's behalf.

5. Mother testified at hearing and explained that she and her family moved to California from the east coast three years ago, specifically to El Segundo. Parents

² All statutory references are to the Welfare and Institutions Code.

enrolled Claimant in school in El Segundo, where he received an extensive amount of special education services. However, Claimant, who is non-verbal, became anxious and overwhelmed and began acting out in an aggressive manner. Parents then elected to pull Claimant out of school and homeschool him instead, endeavoring to relieve him of his anxiety and the negative behavior that resulted therefrom. Claimant did, in fact, benefit from homeschooling, as he assumed a calmer disposition, became more receptive to learning, and stopped engaging in aggressive behaviors.

6. In order to benefit from less expensive housing, Parents moved the family from El Segundo to Redondo Beach, but they still avail themselves of the resources, activities, and the support network of El Segundo. Although Claimant is not currently receiving services from the Service Agency, Mother anticipates he will require services soon, and she would rather have Claimant remain at Service Agency for that purpose. Mother has experienced a certain level of comfort dealing with the representatives of the Service Agency, and would like to continue that relationship.

7. Additionally, Mother had heard some unsavory reports about Harbor, which solidified her desire for Claimant to remain with the Service Agency.

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LEGAL CONCLUSIONS

The Service Agency is not required to retain Claimant's case, as discussed in more detail below:

1. Services are to be provided to regional center clients in conformity with section 4646, subdivision (d), and section 4512, subdivision (b). A consumer's choice plays a part in the construction of the Individual Program Plan (IPP). Where the parties cannot agree on the terms and conditions of the IPP, the results of a Fair Hearing may create such terms. (See §§ 4646, subd. (g); 4710.5, subd. (a).)

2. Section 4620, subdivision (a), provides that “the state shall contract with appropriate agencies to provide fixed points of contact in the community for persons with developmental disabilities and their families, to the end that these persons may have access to the services and supports best suited to them throughout their lifetime.” These fixed points of contact are referred to as regional centers with which the state, through the Department of Developmental Services, contracts to ensure that individuals with developmental disabilities receive access to the programs and services that are best suited to them. (See, Cal. Code Regs., tit. 17, § 54302, subd. (a)(54).) California Code of Regulations, title 17, section 54302, subdivision (a)(58), provides that the geographical area within which a regional center provides services is referred to as the “Service Catchment Area.” Subdivision (a)(77) provides that regional centers use vendors located within its service catchment area.

3. Section 4643.5, subdivision (a), provides that “If a consumer is or has been determined to be eligible for services by a regional center, he or she shall also be considered eligible by any other regional center if he or she has moved to another location within the state.” Moreover, “Whenever a consumer transfers from one regional center catchment area to another, the level and types of services specified in the consumer’s individual program plan shall be authorized and secured, if available, pending the development of a new individual program plan for the consumer. . . . The department shall develop guidelines that describe the responsibilities of regional centers in ensuring a smooth transition of services and supports from one regional center to another. . . .” (§ 4643.5, subd. (c).)

4. As the references to consumer residence and regional center catchment areas clearly indicate, section 4643.5 contemplates consumers receiving services from the regional center in whose geographic area of responsibility the consumer resides. On December 8, 1998, the Department of Developmental Services promulgated the Inter-

Regional Center Transfer Guidelines (Guidelines) required by section 4643.5, subdivision (c), which recognize that services are to be provided by the regional center in whose catchment area the consumer resides. The Guidelines emphasize coordination between sending and receiving regional centers to ensure a smooth transition, and provide for a dispute resolution mechanism should problems arise.

5. Given the above, because Claimant resides within Harbor's catchment area, he must receive services from Harbor, despite Mother's misgivings about Harbor or her desire to maintain the status quo of Claimant's managing regional center. As such, Claimant's appeal shall be denied.

ORDER

Claimant's request that the Westside Regional Center retain his case is denied.

Date:

CARLA L. GARRETT

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.