

BEFORE THE  
OFFICE OF ADMINISTRATIVE HEARINGS  
STATE OF CALIFORNIA

In the Matter of:

CLAIMANT,

vs.

REGIONAL CENTER OF THE EAST BAY,

Service Agency.

OAH No. 2017040897

DECISION

Administrative Law Judge Juliet E. Cox, State of California, Office of Administrative Hearings, heard this matter on May 15, 2017, in San Leandro, California.

Mary Dugan, Fair Hearing and Mediation Specialist, represented service agency Regional Center of the East Bay (RCEB).

Claimant's mother, who is claimant's co-conservator, appeared at the hearing on claimant's behalf. She received assistance from Mei Ling and Chris Leahy. Claimant also was present.

The Good Shepherd Fund (GSF) is claimant's other co-conservator. No GSF representative was present at the hearing.

The matter was submitted on May 15, 2017.

ISSUES

1. May RCEB continue to pay for services to claimant even though claimant's Individual Program Plan (IPP) has expired?

2. Has RCEB responded adequately to requests by claimant's mother for copies of documents from claimant's RCEB case file?

## FACTUAL FINDINGS

1. Claimant is an unmarried adult. Because she is eligible for services under the Lanterman Developmental Disabilities Services Act (the Lanterman Act, Welf. & Inst. Code § 4500 et seq.), she has received a variety of services through RCEB for many years.

2. Claimant is conserved. Claimant's mother and GSF are claimant's co-conservators.

### CLAIMANT'S IPP

3. In consultation with claimant, her co-conservators, and her service providers, RCEB prepared claimant's most recent IPP in February 2014. The 2014 IPP called for claimant to continue receiving services that she had received through RCEB for several years, and claimant has received those services. The 2014 IPP states that it expires in February 2017.

4. In early 2017, RCEB staff members attempted to schedule a meeting with claimant's co-conservators (her mother and a GSF representative) to discuss renewal or revision of claimant's IPP. Claimant's mother has declined to meet with RCEB staff members regarding claimant's IPP.

5. On March 28, 2017, RCEB served a Notice of Proposed Action (NOPA) to claimant, stating that claimant's IPP had expired at the end of February 2017 and that RCEB could not continue funding services for claimant without a current IPP. The NOPA stated further that RCEB would discontinue claimant's service funding effective April 30, 2017.

6. In a letter accompanying the NOPA, RCEB Associate Director of Adult Services Melanie Gonzales explained that RCEB would require consent from both

claimant's co-conservators to renew claimant's IPP. Gonzales confirmed, however, that RCEB representatives were willing to meet separately with claimant's mother and with GSF representatives regarding the IPP renewal.

7. Claimant's mother requested a hearing regarding RCEB's NOPA. As of the hearing date, claimant's mother had not approved a new IPP for claimant.

8. GSF did not request a hearing regarding RCEB's NOPA.

#### DOCUMENT REQUESTS

9. In late 2016, claimant's mother requested documentation from claimant's RCEB case file regarding certain financial transactions RCEB had undertaken on claimant's behalf.

10. In early December 2016, RCEB staff members personally delivered to claimant's mother copies from claimant's case file of all documents responsive to claimant's mother's request. The evidence did not establish that additional responsive documents exist that RCEB staff members have withheld from claimant's mother.

#### LEGAL CONCLUSIONS

1. Claimant's IPP identifies the specific Lanterman Act services she will receive at RCEB's expense. (Welf. & Inst. Code, §§ 4646, 4646.5, subd. (a)(4).) RCEB must review, and if appropriate modify, claimant's IPP at least every three years. (*Id.*, § 4646.5, subd. (b).)

2. Because claimant is conserved, her conservators must approve her IPP, and must indicate their approval by signing a document memorializing the IPP. (Welf. & Inst. Code, § 4646, subd. (g).) RCEB may not continue funding any service to claimant if her conservators do not agree that claimant should continue to receive that service. (*Id.*, § 4848, subd. (a)(7).)

3. Because of the matters stated in Findings 2, 3, 4, and 7, RCEB must terminate funding for any services to claimant that are not described in an IPP approved in or after February 2017 by all of claimant's co-conservators.

4. RCEB must give claimant's mother, as claimant's co-conservator, access to documents in RCEB's client file regarding claimant. (Welf. & Inst. Code, § 4726.)

5. The matters stated in Findings 9 and 10 do not demonstrate that RCEB has failed to fulfill its responsibility to provide documents to claimant's mother upon her request.

## ORDER

Claimant's mother's appeal is denied.

DATED: May 24, 2017

\_\_\_\_\_/s/\_\_\_\_\_

JULIET E. COX

Administrative Law Judge

Office of Administrative Hearings

## NOTICE

This decision is the final administrative decision in this matter. Both parties are bound by this decision. Either party may appeal this decision to a court of competent jurisdiction within 90 days.