

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. 2018060598

DECISION

Administrative Law Judge Juliet E. Cox, State of California, Office of Administrative Hearings, heard this matter on July 31, 2018, in Concord, California.

Claimant's mother appeared for claimant at the hearing. Claimant was not present.

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

The matter was submitted on July 31, 2018.

ISSUE

Must RCEB pay for an aide to provide medical assistance to claimant while he attends a summer day camp program?

FACTUAL FINDINGS

1. Claimant is five years old. He is eligible for services under the Lanterman Developmental Disabilities Services Act (the Lanterman Act, Welf. & Inst. Code § 4500 et

seq.), and receives a variety of services through RCEB as well as through his local public school district.

2. At an annual meeting of claimant's RCEB care team in March 2018, claimant's parents stated their interest in sending claimant to a summer day camp program. Claimant's RCEB case manager, Chad Dickerson, told claimant's parents that relevant laws prohibited RCEB from paying for recreational programs. Dickerson's supervisor, Maria Garcia-Puig, discussed generally with claimant's parents the possibility that this program or a similar program might qualify for funding as a respite service, however.

3. Claimant's parents investigated further what the program they preferred would require for claimant. They determined that claimant's special medical needs would call for a personal aide with medical training (such as a nurse) to accompany him at the day camp program. They decided that they could pay the program fee if RCEB would provide funding for the aide's services during the program.

4. The evidence did not establish when or how claimant's parents communicated to RCEB their request for RCEB to fund only these aide services. Both Dickerson and claimant's mother testified, however, that Dickerson informed claimant's mother by email¹ in early June 2018 that RCEB would not fund the aide. Claimant timely appealed this decision.

5. The summer day camp program claimant's parents wanted him to attend ends in mid-August 2018. Claimant is not enrolled in the program. The evidence did not establish when the next program session will be.

¹ The email itself was not in evidence.

LEGAL CONCLUSIONS

1. The Lanterman Act generally prohibits RCEB from paying for “[c]amping services” or for “[s]ocial recreational activities.” (Welf. & Inst. Code, § 4648.5, subd. (a).)

2. Despite the prohibition stated in Legal Conclusion 1, the Lanterman Act permits RCEB to provide funding for “respite for parents,” (Welf. & Inst. Code, § 4685, subd. (c)(1)), to “[r]elieve family members from the constantly demanding responsibility of caring for the client” (*id.*, § 4690.2, subd. (a)(3)). In some circumstances, RCEB also may assist parents with the cost of “day care services” for young children, to the extent that this cost “exceeds the cost of providing day care services to a child without disabilities.” (*Id.*, § 4685, subd. (c)(6).)

3. Because of the matters stated in Finding 5, a determination as to whether the Lanterman Act and its implementing regulations require RCEB to fund the aide service claimant’s parents requested for summer 2018 would serve no current purpose. Although claimant’s mother argued that a determination would assist the parties in the event such a question arises again, the circumstances under which such a question might arise in claimant’s future are uncertain. Claimant’s needs, his family’s needs, the day camp program, or the Lanterman Act all might change between now and then. Any decision about funding a day camp program or an aide in the future must reflect circumstances in existence at that time, and must wait until those future circumstances are clear.

ORDER

Claimant’s appeal from RCEB’s decision denying funding to him for an aide to provide medical assistance to claimant while he attends a summer day camp program is dismissed.

DATED:

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.