

**BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA**

In the Matter of:

CLAIMANT,

vs.

SAN ANDREAS REGIONAL CENTER, Service Agency.

OAH No. 2019080593

DECISION

Administrative Law Judge Juliet E. Cox, State of California, Office of Administrative Hearings, heard this matter on November 8, 2019, in San Jose, California.

Claimant's mother advocated for her at the hearing. Claimant's mother attended telephonically; claimant was not present.

James F. Elliott represented service agency San Andreas Regional Center (SARC).

The matter was submitted on November 8, 2019.

ISSUE

May SARC pay for incontinence supplies for claimant, when claimant is presumptively eligible for Medi-Cal coverage that would pay for those supplies but has not applied to enroll in Medi-Cal?

FACTUAL FINDINGS

1. Claimant was born in 2008 and has intellectual disability. She is a SARC consumer. Claimant lives with her mother and other family members.
2. Claimant does not have reliable bladder or bowel control. She wears diapers.
3. Claimant's mother is employed, and has health insurance for herself and claimant through her job. Claimant's health insurance carrier has declined to cover diapers or similar incontinence supplies for claimant.
4. Claimant's SARC service coordinator, Fabiola Garcia, believes that claimant is eligible for Medi-Cal, to supplement (but not to replace) the health insurance claimant has through her mother's employer. Garcia believes further that if claimant enrolled in Medi-Cal, Medi-Cal would pay for claimant's incontinence supplies, and might pay as well for other services or items claimant needs. Based on her training and experience, Garcia's beliefs with respect to claimant's Medi-Cal eligibility are reasonable.

5. To enroll in Medi-Cal, claimant must apply. Her application must include documents from SARC explaining and confirming why she is eligible for Medi-Cal despite her mother's employment and her private health insurance.

6. SARC sent claimant's mother the documents necessary to qualify claimant for Medi-Cal in late 2017. Claimant's mother has not applied to enroll claimant in Medi-Cal.

7. SARC notified claimant's mother in June 2019 that SARC would not pay for incontinence supplies for claimant, because claimant's mother had not demonstrated that Medi-Cal coverage for these supplies was unavailable to claimant. Claimant's mother appealed this decision, requesting this hearing.

8. Claimant's mother believes that purchasing incontinence supplies for claimant will cause her household financial hardship. She offered no credible or persuasive explanation for not having applied to enroll claimant in Medi-Cal, stating only that she had not understood that she could or should.

LEGAL CONCLUSIONS

1. SARC may pay for services and supports for claimant, but must not pay for services or items claimant can receive from another public agency. (Welf. & Inst. Code, § 4648, subds. (a)(3), (a)(8).) In particular, SARC may not pay for services to claimant that claimant could receive, but has chosen not to pursue, through Medi-Cal. (Welf. & Inst. Code, § 4659, subds. (a)(1), (c).)

2. The matters stated in Findings 1 and 2 establish claimant's present need for incontinence supplies. The matters stated in Findings 3 through 8 fail to establish SARC's authority to pay for these supplies.

ORDER

Claimant's appeal is denied.

DATE:

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.