

**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. 2020090246

DECISION

Administrative Law Judge, Traci C. Belmore, State of California, Office of Administrative Hearings heard this matter on November 6, 2020, by videoconference.

Claimant's father represented claimant, who was not present at hearing. Claimant's mother was also present at hearing.

Mary Dugan represented Regional Center of the East Bay, the service agency.

The record closed and the matter was submitted for decision on November 6, 2020.

ISSUE

Must Regional Center of the East Bay (RCEB) fund global positioning system (GPS) monitoring for claimant?

FACTUAL FINDINGS

1. Claimant is a 14-year-old consumer of RCEB by reason of his diagnosis of Autism Spectrum Disorder. Claimant lives at home with his parents and is currently being home-schooled. Claimant is an active teenager and enjoys outdoor activities.

2. Beginning in July 2020, claimant began leaving the house without notice or permission. This behavior is dangerous to claimant as he lacks safety awareness. Claimant cannot cross a street without assistance as he does not recognize the dangers that cars present. Claimant has left the house in inappropriate clothing (pajamas). Claimant has left the house without his parents' knowledge on six different occasions. Claimant's parents were able to find claimant relatively quickly in each instance.

3. Claimant's parents felt a sense of urgency to ensure claimant's safety and decided to purchase a door alarm in August 2020. Since the installation of the door alarm, claimant has not left the house without notice although he has tried. Claimant is sensitive to high-pitched noises. The door alarm has thwarted claimant's attempts to leave the home without permission. Claimant is beginning to desensitize to the noise of the door alarms and has made attempts to figure out how to disable the door alarms.

4. In seeking to leave the house without supervision, claimant is attempting to gain independence in a manner consistent with that of a non-disabled teenager. Unfortunately, due to his autism, claimant's behavior places him in greater danger than that of a non-disabled teenager in that he does not have sufficient safety awareness to venture out without supervision.

5. On August 31, 2020, an informal team meeting was held to discuss RCEB funding GPS monitoring for claimant. At that time claimant was receiving Applied Behavioral Analysis (ABA) support sporadically and respite care for claimant's parents. After the meeting, RCEB recommended changing ABA providers to a more consistent provider and adding the Fred Finch Wrap Around Program, a program that provides individual and family support to address claimant's elopement behavior. RCEB also agreed to continue funding a Medic-Alert bracelet and Medic-Alert annual membership fee. Claimant has begun the process for changing his ABA provider and has undergone the intake procedure for Fred Finch Wrap Around Program services, but as of the date of the hearing those services were not yet being utilized.

6. Claimant's behavior was addressed in September 2020, in an addendum to claimant's most recent Individual Program Plan (IPP). The goals of the addendum to the IPP were to help claimant learn not to leave the home by himself without parents' permission, to safely cross driveways and intersections, to identify people that are part of claimant's safe circle, and to teach claimant not to go with any person outside of his safe circle. The addendum affirmed the decision regarding providing services to address claimant's behavioral issues made at the August 31, 2020 team meeting.

7. In a Notice of Proposed Action dated August 24, 2020, RCEB notified claimant that the request for funding the GPS monitoring was denied. In denying the request, RCEB emphasized that the recommendations made by the team during the

August 31, 2020 meeting were able to meet claimant's needs. RCEB further explained that use of GPS monitoring was contra indicated as it does not provide a long-term solution to claimant's elopement behavior. Claimant filed a fair hearing request, and this hearing ensued.

LEGAL CONCLUSIONS

1. Pursuant to the Lanterman Developmental Disabilities Services Act (Act) found at Welfare and Institutions Code¹ section 4500 et seq., the State of California accepts responsibility for persons with developmental disabilities. The purpose of the Act is to rectify the problem of inadequate treatment and services for the developmentally disabled and to enable developmentally disabled individuals to lead independent and productive lives in the least restrictive setting possible. (§ 4501, *Association for Retarded Citizens v. Department of Developmental Services* (1985) 38 Cal.3d 384.)

2. The Act directs regional centers to develop and implement an IPP for each individual who is eligible for services, setting forth the services and supports needed by the consumer to meet his or her goals and objectives. (§ 4646.) The determination of which services and supports are necessary is made after analyzing the needs and preferences of the consumer, the range of service options available, the

¹ All statutory references are to the Welfare and Institutions Code unless otherwise indicated.

effectiveness of each option in meeting the goals of the IPP, and the cost of each option. (§§ 4646, 4646.5 & 4648.)

3. Claimant's safety is critical to his family and to RCEB. As a result, RCEB has agreed to fund services that will provide a long-term solution to claimant's elopement behavior. This will also allow him to live an independent and productive life in the least restrictive environment. Claimant did not meet his burden of establishing that GPS monitoring will meet the objectives of the September 2020 addendum to claimant's most recent IPP, nor whether it would do so more effectively than the plan in the addendum. (Factual Finding 6.) Accordingly, claimant's appeal must be denied.

ORDER

Claimant's appeal is denied.

DATE:

TRACI C. BELMORE

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.