

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

In the Matter of:

CLAIMANT,

vs.

WESTSIDE REGIONAL CENTER,

Service Agency.

OAH No. 2020100097

DECISION

Carmen D. Snuggs, Administrative Law Judge (ALJ), Office of Administrative Hearings, State of California, heard this matter by videoconference and telephonically on April 20, 2021.

Candace Hein, Fair Hearing Specialist, represented the Westside Regional Center (WRC or Service Agency). Claimant, who was not present at the hearing, was represented by his mother (Mother), who is Claimant's authorized representative.¹

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

Oral and documentary evidence was received. The record was closed, and the matter was submitted for decision on April 20, 2021.

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?

EVIDENCE RELIED UPON

In reaching this Decision, the ALJ relied upon service agency exhibits 1 through 4, as well as the testimony of Candace Hein and Mother.

FACTUAL FINDINGS

1. Claimant is 26 years old and currently lives with Mother in Long Beach, California, outside of the Service Agency's catchment area. Until 2020, Claimant, who is autistic and eligible for services pursuant to the Lanterman Developmental Disabilities Services Act (Lanterman Act), Welfare and Institutions Code² section 4500, et seq., lived in West Los Angeles, California, within the Service Agency's catchment area.

2. In addition to respite services, WRC currently funds independent living services (ILS) for Claimant, provided by vendor Independent Living Solutions. On September 8, 2020, Herb Morales, a supervisor at Independent Living Solutions,

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

informed Maria Fukuda, Claimant's service coordinator, that Claimant and his family had moved to Long Beach. Ms. Fukuda informed Mr. Morales that she would process Claimant's case for transfer to another regional center.

3. On a date not made clear by the record, Mother requested that WRC retain Claimant's case. On September 14, 2020, the Service Agency sent a letter to Claimant and Mother denying the request on the grounds that Claimant lived within the Harbor Regional Center's (HRC) catchment area and informing Claimant that his case would be transferred to HRC effective October 1, 2020.

4. On September 17, 2020, in response to WRC's proposed action, Claimant filed a Fair Hearing Request.

5. On September 24, 2020, Mary Rollins, WRC Director's Designee, conducted a telephonic first level fair hearing appeal with Mother. On September 29, 2020, Ms. Rollins sent a letter to Mother informing her that Claimant's case would be transferred to HRC effective December 1, 2020. In this letter, Ms. Rollins explained it is the Department of Developmental Services' policy for consumers to be served by the regional center in the area where the consumer resides, and that the policy "[ensured] the most knowledge of resources and thorough quality assurance." (Ex. 4.)

6. Recognizing that Claimant had experienced recent changes and turmoil, Ms. Rollins postponed the transfer to HRC for two months from the first level fair hearing appeal. In the meantime, Ms. Rollins hoped Claimant's ILS provider could prepare Claimant for the transfer and the possibility that Claimant would have to work with a new ILS agency.

7. On April 20, 2021, prior to the start of the administrative hearing, Candace Hein, WRC's Fair Hearing Specialist, spoke with Erika Landeros, HRC's Service

Provider Relations Coordinator. It is Ms. Hein's understanding from speaking with Ms. Landeros that Independent Living Solutions is an HRC vendor.

8. Mother testified that in addition to autism, Claimant suffers from post-traumatic stress disorder because of trauma he suffered at age 10. Claimant does not interact well with people and he does not trust and is afraid of people he does not know.

9. Claimant has worked with the same ILS provider for 8 years and is very attached to her. According to Mother, Claimant's ILS provider is the only person Claimant trusts outside his home.

10. Claimant and his family were forced to move at the start of the COVID-19 pandemic and quarantine. Mother is opposed to having Claimant deal with the additional change and upheaval that Mother believes would result from the transfer of Claimant's case to HRC.

11. Mother expressed frustration because she was not informed before the administrative hearing that Independent Living Solutions is an HRC vendor, and Ms. Hein's testimony contradicts what Mother was told by Ms. Fukuda about the possibility of Claimant transferring to a different ILS vendor. Mother is concerned that there is no plan in place at HRC for Claimant to continue receiving services, and that Claimant's case will "fall through the cracks." Mother is also concerned that if issues arise from the transfer of Claimant's case, her disability and lack of resources will prevent her from resolving them.

LEGAL CONCLUSIONS

1. This case is governed by the Lanterman Act. Under the Lanterman Act, an administrative "fair hearing" is available to determine the rights and obligations of the parties. (§ 4710.5.) Claimant requested a fair hearing to appeal the Service Agency's denial of his request to keep his case at WRC although he no longer lived in their catchment area. Jurisdiction in this case was thus established.

2. The standard of proof in this case is a preponderance of the evidence because no law or statute (including the Lanterman Act) requires otherwise. (Evid. Code, §115.) Claimant is requesting that WRC retain his case although he no longer resides in the WRC catchment area. Under these circumstances, Claimant bears the burden of proof.

3. 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).).

4. 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.

5. Section 4640, subdivision (a), provides that "[c]ontracts between the department and regional centers shall specify the service area and the categories of persons that regional centers shall be expected to serve and the services and supports to be provided."

6. 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, "[w]henver 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).)

7. Section 4643.5, subdivision (d)(2)(C), provides:

- (i) The receiving regional center shall provide the sending regional center with contact information for a staff member who is available to confer with the planning team at the sending regional center regarding the types of services and providers

available to address the service needs of the consumer in his or her new residential location.

- (ii) Within 14 days of the notice of transfer, the receiving regional center shall provide the sending regional center with information regarding appropriate vendors and services to meet the needs of the consumer.

8. Claimant has not met his burden of proving that WRC must retain Claimant as a client, even though he and his family have relocated to a home outside of the Service Agency's catchment area. 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.

9. Given the above, because Claimant resides within HRC's catchment area, he must receive services from HRC, despite Mother's misgivings about HRC or her desire to maintain the status quo with respect to Claimant's ILS vendor. As such, Claimant's appeal shall be denied.

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ORDER

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

DATE:

CARMEN D. SNUGGS

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.