

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

In the Matter of:

CLAIMANT

v.

REGIONAL CENTER OF THE EAST BAY, Service Agency.

OAH No. 2020100218

DECISION

Administrative Law Judge Barbara O'Hearn, State of California, Office of Administrative Hearings, heard this matter by videoconference on November 13, 2020.

Claimant was represented by his attorney and grandmother, Phyl Van Ammers. Claimant was not present. His mother was present.

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

The matter was submitted for decision on November 13, 2020.

ISSUE

Is claimant entitled to RCEB funding for treatment in "The Last House," a residential sober living program, and in "Thrive," a substance abuse day treatment center, both located in Santa Monica, where claimant currently resides?

FACTUAL FINDINGS

1. Claimant is 22 years old and has been eligible for services from RCEB since March 28, 2019, due to autism. When he became an RCEB consumer, claimant lived with his parents in Clayton. Claimant's mother has been his representative for RCEB.

2. Claimant and RCEB are parties to an Individual Program Plan (IPP) dated June 5, 2019. The IPP does not reference any drug or alcohol dependency. The IPP is reviewed every three years, or at the family's request.

3. In June 2019, according to the IPP, claimant had his own car, was taking community college classes, and was volunteering at a physical therapy center. Claimant's long-range goals in the IPP were "to learn to be more self-sufficient, to finish school and get [his] credentials, and live in [his] own apartment one day."

4. On August 19, 2019, claimant entered a transitional independent living program with New Directions and moved into a New Directions apartment in Pleasant Hill. On January 8, 2020, claimant's mother notified RCEB about claimant's move.

5. At that time, claimant's mother expressed concern that New Directions staff members sometimes gave claimant his prescribed medications before he should

take them. Claimant's mother stated, however, that claimant was doing well at New Directions and that she did not want him to leave.

6. After the "Shelter in Place" order in mid-March 2020, claimant's situation worsened. New Directions did not resolve the medication issue. After review on April 1, 2020, claimant's RCEB case manager, Lisa Ribbitch, notified claimant's mother that New Directions might not be the right fit if claimant needs higher management of his medication.

7. During a subsequent call on April 1, 2020, claimant's mother stated that claimant had a history of either not taking his medications or overtaking them. On April 14, 2020, claimant's mother found multiple medications that claimant had not taken. On May 8, 2020, claimant's mother learned that claimant had taken drugs and alcohol, and had not taken his prescribed medication for two weeks. On two occasions, claimant's mother found beer in claimant's apartment.

8. On May 13, 2020, claimant's mother reported to New Directions that claimant had been admitted to a chemical dependency outpatient program at John Muir Health's Addiction Medicine Services. On the same date, claimant's mother notified RCEB that she wanted to cancel services with New Directions. RCEB began steps for an assessment of claimant with another program for supportive or independent living services.

9. On May 19, 2020, claimant's mother notified Ribbitch that she had found a program for claimant in Statesboro, Georgia, and inquired about funding. Ribbitch replied that funding was not provided for out of state programs.

10. On June 2, 2020, claimant's mother notified Ribbitch that claimant would be moving to Georgia on June 7, 2020, the date his outpatient services at the John

Muir program would end due to lack of health insurance coverage for longer than 30 days. Claimant attended Willingway, a treatment center for addictions. He left on August 26, 2020.

11. On August 28, 2020, claimant's mother notified Ribbitch that claimant was in California and asked to reactivate his services with RCEB. Claimant's mother stated she would like claimant to attend a program in Southern California and asked how to obtain RCEB funding.

12. RCEB assigned a new case manager, Colleen Schaffner, on September 2, 2020. On September 4, 2020, her supervisor, Annika Grant, spoke with claimant's mother and learned that claimant was already residing in Santa Monica at "The Last House," a sober living program.

13. Claimant also wanted to attend "Thrive," a substance abuse day treatment center in Santa Monica. He was not yet attending while awaiting funding. Grant tried to explain the funding limitations for claimant's eligibility due to developmental disability. Additionally, regional center service agencies, through the Association of Regional Center Agencies, have a memorandum of understanding (MOU) among them requiring each of them to provide services only within their network or "catchment service area."

14. On September 15, 2020, Schaffner confirmed to claimant's mother that funding outside the area covered by RCEB was not available from RCEB, but that claimant could transfer services to a Southern California regional center. Claimant maintains his permanent residence address at his parents' home in Northern California, however, and does not want to transfer his services to another location.

15. On September 17, 2020, RCEB issued a notice of proposed action to deny funding of the Thrive Treatment Program services for claimant. In a separate denial letter dated September 17, 2020, RCEB provided additional explanation that it had not been involved in claimant's decision to move outside its catchment area and to seek placement and addiction treatment.

16. If it had been involved, RCEB would have sought treatment for claimant within its vendorized programs that meet the needs of individuals with developmental disabilities. RCEB generally is unable to fund drug treatment centers, and the programs claimant has chosen are not vendors of RCEB or of any other regional centers.

17. Claimant appealed. He requested a fair hearing for RCEB to fund his services at Thrive Treatment Program and The Last House.

LEGAL CONCLUSIONS

1. Under the Lanterman Developmental Disabilities Services Act (Welf. & Inst. Code, § 4500 et seq.) the State of California accepts responsibility for persons with developmental disabilities (§ 4501). The Department of Developmental Services is the state agency charged with implementing the Lanterman Act. It contracts with regional centers that are charged with the responsibility of providing access to services and supports best suited for individuals with a developmentally disability. (§ 4620, subd. (a).)

2. The Lanterman 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. (Welf. & Inst. Code, § 4646 subd. (c).) 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 effectiveness of each option in meeting the goals of the IPP, and the cost of each option. (§§ 4646, 4646.5 & 4648.)

3. While regional centers have a duty to provide a wide array of services to implement the goals and objectives of the IPP, they are also directed by the Legislature to provide services in a cost-effective manner. (Welf. & Inst. Code, § 4646, subd. (a).) When determining whether to fund a requested service, regional centers must identify and pursue all possible alternative sources of funding, including utilization of generic services when appropriate. (§§ 4659, subd. (a) & 4646.4, subd. (a)(2).)

4. A regional center may, pursuant to vendorization or a contract, purchase services or supports for a consumer that the regional center and consumer, or the consumer's authorized representative, determines will best accomplish all or part of that consumer's program plan. Vendorization or contracting is the process for identification, selection, and utilization of service vendors or contractors, based on the qualifications and other requirements necessary in order to provide the service. (Welf. & Inst. Code, § 4648, subd. (a)(3)(A).)

5. "Regional center vendor" means an agency, individual, or service provider that a regional center has approved to provide vendored or contracted services or supports. (Welf. & Inst. Code, § 4659.2, subd. (a)(6).) The matters stated in Finding 16 confirm that claimant does not seek services through an RCEB vendor.

6. The planning process for the IPP shall include a schedule of the type and amount of services and supports to be purchased by the regional center or obtained from generic agencies or other resources in order to achieve the individual program

plan goals and objectives, and identification of the provider or providers of service responsible for attaining each objective, including, but not limited to, vendors, contracted providers, generic service agencies, and natural supports. The IPP shall specify the approximate scheduled start date for services and supports and shall contain timelines for actions necessary to begin services and supports, including generic services. (Welf. & Inst. Code, § 4646.5, subd. (a)(5).)

7. Under the Lanterman Act, a network of regional centers, that are non-profit community agencies, provides services for consumers. (Welf. & Inst. Code, §§ 4620 & 4621. Each regional center has its own board of directors. The MOU between regional centers precludes a regional center from providing services outside its own catchment area.

8. Claimant has the burden of proving by a preponderance of the evidence his eligibility for government-funded services. (See *Lindsay v. San Diego Retirement Bd.* (1964) 231 Cal.App.2d 156, 161; Evid. Code, § 500.) Claimant has not met his burden.

9. Cause does not exist for RCEB to fund claimant's residential treatment in "The Last House." As described in Finding 12, claimant chose to receive services from The Last House, other than for his developmental disability, without advance input from RCEB and outside the catchment area for RCEB. This choice follows a pattern described in Finding 10. As described in Finding 4, claimant also chose to receive services without advance input from RCEB for his developmental disability within the RCEB catchment area.

10. Similarly, cause does not exist for RCEB to fund claimant's substance abuse treatment in Thrive. As described in Finding 13, services from Thrive are for other than his developmental disability, and are outside the catchment area for RCEB.

ORDER

Claimant's appeal is denied. Claimant is not entitled to RCEB funding for residential treatment in "The Last House" or for outpatient treatment in "Thrive."

DATE:

BARBARA O'HEARN

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.