

**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. 2020110196**

**DECISION**

Administrative Law Judge Barbara O'Hearn, State of California, Office of Administrative Hearings, heard this matter by videoconference on December 9, 2020.

There was no appearance by, or on behalf of, claimant.

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

The matter was submitted for decision on December 9, 2020.

**FACTUAL FINDINGS**

1. Claimant's fair hearing request was filed on October 26, 2020, by Gail Spears, claimant's mother and authorized representative, challenging action by the

Regional Center of the East Bay (RCEB). RCEB proposed to no longer fund specialized daycare services for claimant due to the lack of employment documentation from claimant's mother. This documentation is required to reflect the cost-effective use of public resources under Welfare and Institutions Code sections 4646, subdivision (a) and 4646.4, subdivision (a) (1), in the Lanterman Developmental Disabilities Services Act (*id.*, § 4500 et seq.).

2. On November 10, 2020, the Office of Administrative Hearings (OAH) sent the parties a notice of hearing and mediation. On November 12, 2020, OAH sent the parties an order for remote hearing and mediation. On December 1, 2020, claimant's representative spoke with Administrative Law Judge Michael Starkey. Claimant's representative acknowledged that she was aware of the mediation on December 3, 2020, at 9:00 a.m.

3. When claimant's representative did not appear for the mediation, Presiding Administrative Law Judge Jill Schlichtmann left her a voice message at 9:10 a.m. When claimant's representative did not call in for the mediation by 9:30 a.m., the mediation was taken off calendar.

4. The hearing for claimant's fair hearing request remained on calendar for December 9, 2020, at 9:00 a.m. The notices of hearing, sent on November 10, 2020 and November 12, 2020, were properly served on claimant's representative as required by Welfare and Institutions Code section 4711.

5. On December 7, 2020, RCEB received employment documentation from claimant's representative and agreed to fund claimant's daycare services. RCEB sent claimant's representative a notice of resolution for her signature. Since it was not received, the hearing remained on calendar.

6. Neither claimant's representative nor anyone else appeared on claimant's behalf at the hearing by 9:30 a.m. Therefore, no evidence in support of claimant's fair hearing request was presented or considered.

### **LEGAL CONCLUSIONS**

Claimant has the burden of proving that he is eligible for regional center services. The failure to appear and to present evidence in support of the appeal is deemed to be a withdrawal of the request for a fair hearing, and provides cause to dismiss the appeal.

### **ORDER**

Claimant's appeal is dismissed.

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.