

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

In the Matter of the Fair Hearing Request of:

CLAIMANT

and

SOUTH CENTRAL LOS ANGELES REGIONAL CENTER

OAH No. 2021090852

DECISION

Debra D. Nye-Perkins, Administrative Law Judge, Office of Administrative Hearings (OAH), State of California, heard this matter by videoconference on January 18, 2022, due to the ongoing COVID-19 pandemic.

Claimant is eight years of age and represented by her mother. No one appeared on claimant's behalf at the hearing despite proper service of the notice of hearing.

Aaron Abromowitz, Attorney at Law, Enright & Ocheltree, L.L.P., represented South Central Los Angeles Regional Center (SCLARC).

Upon proof that satisfactory service had been effectuated on claimant, SCLARC's request to proceed with a hearing was granted. Documentary evidence was

received. The record was closed, and the matter was submitted for decision on January 18, 2022.

FACTUAL FINDINGS

1. The Fair Hearing Request (Request) filed by claimant's mother on her behalf, challenged SCLARC's determination that claimant was not eligible for regional center services based on a substantial disability as a result of intellectual disability, autism, cerebral palsy, epilepsy, or a handicapping condition closely related to intellectual disability, or that claimant needed treatment similar to what intellectual disability individuals need. The Request asserted that claimant was not properly evaluated and sought a "psychological observation with an exam to evaluate language delay since there are also vision and hearing problems," and an intelligence quotient test.

2. This matter was originally set for hearing on November 24, 2021. SCLARC thereafter requested a continuance, which was unopposed, and claimant's mother execute a time waiver. This matter was continued to January 18, 2022, at 9:00 a.m., in a Continuance Order and Notice of New Hearing Date, which was mailed to the address provided by claimant's mother in the Request filed with the SCLARC.

3. On January 18, 2022, Administrative Law Judge Debra D. Nye-Perkins called the case for hearing. Mr. Abromowitz represented SCLARC. No one appeared at the hearing on behalf of claimant. Notice of the hearing was properly served on claimant's representative. Welfare and Institutions Code section 4712, subdivision (a), permits a hearing to be continued if good cause is found. Here, no good cause to continue the hearing was presented.

4. Claimant and her representative received actual notice of the date, time and information to appear by telephone or videoconference with instructions; however, claimant's representative did not appear at the hearing.

5. The burden rests on claimant to establish by a preponderance of the evidence that she suffers from a qualifying, substantial developmental disability. (Evid. Code, § 115.) By failing to appear, or offering good cause for her failure to appear, claimant failed to establish her eligibility.

6. Additionally, the burden is on claimant to diligently prosecute her appeal/fair hearing request. Claimant and her representative were properly notified of the date, time and place of hearing and failed to appear for the hearing. No good cause for claimant's failure to appear was offered. Consequently, claimant is deemed to have abandoned her appeal/fair hearing request.

ORDER

1. Claimant's appeal/fair hearing request is dismissed.
2. SCLARC's determination that claimant is not eligible for services is upheld.

DATE: January 26, 2022

DEBRA D. NYE-PERKINS
Administrative Law Judge
Office of Administrative Hearings

NOTICE

This is a final administrative decision pursuant to Welfare and Institutions Code section 4712.5, subdivision (b)(2). Both parties are bound hereby. Either party may appeal this decision to a court of competent jurisdiction within 90 days.