

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

In the Matter of the Fair Hearing Request of:

CLAIMANT

and

INLAND REGIONAL CENTER

OAH No. 2021110684

DECISION

Debra D. Nye-Perkins, Administrative Law Judge, Office of Administrative Hearings (OAH), State of California, heard this matter by telephone on March 16, 2022, due to the ongoing COVID-19 pandemic.

Claimant is 17 years of age and represented by his mother. No one appeared on claimant's behalf at the hearing despite proper service of the notice of hearing.

Stephanie Zermeño, Fair Hearings Representative, represented Inland Regional Center (IRC).

Upon proof that satisfactory service had been effectuated on claimant, IRC'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 March 16, 2022.

FACTUAL FINDINGS

1. The Fair Hearing Request (Request) filed by claimant's mother on his behalf, challenged IRC's determination that claimant was not eligible for regional center services based on a substantial disability as a result of both epilepsy and autism. The Request asserted that claimant has both diagnoses of generalized epilepsy and autism, "both of which significantly impacts [*sic*] day to day activities."

2. This matter was originally set for hearing on January 5, 2022. The parties thereafter requested a continuance, which was unopposed, and claimant's mother executed a time waiver. This matter was continued to March 16, 2022, at 10:00 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 IRC.

3. On March 16, 2022, Administrative Law Judge Debra D. Nye-Perkins called the case for hearing. Ms. Zermeño represented IRC. 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 his 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 he suffers from a qualifying, substantial developmental disability. (Evid.

Code, § 115.) By failing to appear, or offering good cause for his failure to appear, claimant failed to establish his eligibility.

6. Additionally, the burden is on claimant to diligently prosecute his appeal/fair hearing request. Claimant and his 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 his appeal/fair hearing request.

ORDER

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

DATE: March 22, 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.