

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

In the Matter of:

CLAIMANT

vs.

REGIONAL CENTER OF THE EAST BAY, Service Agency.

OAH No. 2022040636

DECISION

Administrative Law Judge Karen Reichmann, State of California, Office of Administrative Hearings, heard this matter on June 8, 2022, by videoconference.

Claimant was represented by his mother. Claimant was not present at the hearing.

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

The record closed, and the matter was submitted for decision on June 8, 2022.

ISSUE

Did RCEB err in denying claimant funding for a trip to Disneyland, after having previously agreed that the trip could be funded through claimant's self-determination program funds?

FACTUAL FINDINGS

1. Claimant is an 11-year-old RCEB consumer, who is receiving services based on autism. Claimant lives in Contra Costa County with his mother.
2. Claimant and RCEB are parties to a Person Centered Individual Program Plan (IPP) dated December 13, 2021. RCEB funds services to claimant through the self-determination program. The IPP provides for a total one-year budget of \$35,377.78 to pay for various supports and services.
3. While planning the IPP, claimant's mother expressed to her case manager an interest in planning a trip to Disneyland. Claimant has a strong interest in Disney characters, especially Mickey Mouse. Claimant's mother believes that a trip to Disneyland would have unique benefits and would help claimant address specific goals, such as exercising patience, using transportation, waiting in lines, and managing crowds and loud noise. Claimant's case manager supported this idea and, after consultation with her supervisor, notified claimant's mother that she believed that funds designated for community integration could be used to pay for the proposed trip. The parties allocated \$2,756.10 from the self-determination budget towards airfare, tickets, and bus service for both claimant and his mother in the self-determination spending plan covering February 2022 through January 2023.

4. The proposed trip to Disneyland is referenced in claimant's IPP, under the section titled, "My Communication, Personal And Emotional Growth." The IPP states:

Mother has allocated SDP funds for a trip to Disney Land (in Anaheim, California). This trip will provide opportunity for [claimant] to practice waiting (waiting in line for rides), flexibility, and responding to loud noises. Mother and [claimant] chose Disney Land to practice these skills since [claimant] loves Disney. He will be learning these skills in a preferred environment.

5. Claimant's mother contacted a travel agency and arranged a travel bundle to Disneyland which included airfare, hotel accommodations, shuttle tickets, park tickets, lanyards, pins, and travel insurance, for a total of \$3,306.63, about \$500 more than had been allocated. Claimant's mother scheduled the trip for April 2022, with the knowledge and support of claimant's case manager. Claimant's mother offered to ask for a breakdown of the expenses from the travel agency and offered to pay for anything that RCEB did not think should be included, such as lodging, insurance, and the lanyards and pins.

6. Pursuant to the self-determination program, claimant's funds are managed by a fiscal management service. When the funds for the trip were requested, claimant's fiscal management service notified RCEB that it would not release funds for the Disneyland trip because it believed the trip could not lawfully be funded by RCEB.

7. RCEB contacted the Department of Developmental Services for guidance. The Department confirmed that RCEB could not fund a trip to Disneyland. The Department subsequently issued a document titled "Self-Determination Program

(SDP): What can or cannot be paid for and why?" These guidelines include the category, "Goods and services that are purchased for entertainment (for example, amusement park, concert tickets or recreation that provides no therapeutic and/or physical benefit)" followed by the notation "Not Allowed" and the explanation, "Purely recreational activities that do not meet the disability-related needs of the participant and/or their IPP goals and outcomes (for example, entrance tickets for amusement park or similar for the consumer)."

8. RCEB notified claimant by letter dated March 29, 2022, that although it had agreed to fund the trip in the IPP, it was now denying funding because the trip would not be cost effective. A Notice of Proposed Action denying funding for the trip on the same basis was issued that day. Claimant's mother was forced to cancel the trip on short notice. Claimant was devastated, and his mother felt that RCEB's decision was an injustice to her son.

9. Claimant submitted a Fair Hearing Request appealing the denial on April 18, 2022.

10. An Informal Meeting was held on April 20, 2022. On April 25, 2022, RCEB sent claimant a letter upholding its determination, stating that funding the trip to Disneyland is not cost effective and is contrary to the law.

11. Claimant's mother believes that the Department's guidelines do not preclude RCEB from funding the trip because the trip would provide therapeutic benefits to her son that are outlined in his IPP. She also believes that it would be valuable to expose claimant to a different environment than the small community they live in. Claimant's mother argued that the language in the Department's guidelines is ambiguous. She does not believe that the alternate uses for spending funds for

community integration suggested by RCEB are comparable to the unique setting provided by Disneyland. Because Disney characters are a source of comfort for claimant, claimant's mother believes that he would be better able to focus on accomplishing his community integration goals there than in other settings.

12. RCEB does not dispute that claimant would benefit from a trip to Disneyland, but explained that all family vacations are educational for children, disabled or not. RCEB cannot fund a family vacation because the law requires that regional centers must take into consideration typical family responsibilities for providing similar supports and services for a child without disabilities. RCEB added that regional centers are also mandated by law to provide services in a cost-effective manner, and that there are alternatives to a trip to Disneyland which would address claimant's IPP goals that are more cost-effective. RCEB wishes to work with claimant and his mother creatively to identify other, more cost-effective activities, perhaps even incorporating claimant's affinity for Mickey Mouse.

13. RCEB deeply regrets that it mistakenly believed that funding the trip to Disneyland with self-determination program funds was permissible, and apologized to claimant and his mother for the disappointment caused by its actions. Although the self-determination program provides families with more autonomy and flexibility in choosing supports and services, spending is still constrained by applicable statutes and policies.

14. RCEB staff and claimant's mother both expressed their appreciation for each other and look forward to working productively in the future to support claimant in meeting his goals and objectives.

LEGAL CONCLUSIONS

1. Pursuant to the Lanterman Developmental Disabilities Services Act, the State of California accepts responsibility for persons with developmental disabilities. (Welf. & Inst. Code, § 4500 et seq.) The Lanterman Act mandates that an "array of services and supports should be established . . . to meet the needs and choices of each person with developmental disabilities . . . and to support their integration into the mainstream life of the community." (§ 4501.) Regional centers have the responsibility of carrying out the state's responsibilities to the developmentally disabled under the Lanterman Act. (§ 4620, subd. (a).) 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. (§ 4646.) 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.)

2. The self-determination program allows regional center consumers to have greater control over the supports and services needed to meet their IPP objectives. (§ 4685.8.)

3. Regional centers must take into consideration typical family responsibility for providing supports and services for children who are not disabled. (§ 4646.4, subd. (a)(4).) An out-of-town vacation to an amusement park falls under this category.

4. Regional centers must provide services to consumers in a manner that reflects the cost-effective use of public resources. (§ 4646, subd. (a).) The proposed trip

to Disneyland does not reflect the cost-effective use of public resources. Even assuming that the proposed trip would have therapeutic value and is not purely for entertainment purposes, there are other, less expensive activities in the local community which could help claimant learn patience, using transportation, managing crowds and noise, and waiting in line.

5. Although it is extremely unfortunate that RCEB mistakenly approved of the trip and encouraged claimant's mother to make travel arrangements, claimant has not established that RCEB erred by denying funding the trip to Disneyland.

ORDER

Claimant's appeal is denied.

DATE:

KAREN REICHMANN
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.