

**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. 2022070148

DECISION

Administrative Law Judge Juliet E. Cox, State of California, Office of Administrative Hearings, heard this matter on August 24, 2022, by videoconference.

Claimant represented herself.

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

The matter was submitted for decision on August 24, 2022.

ISSUE

Do RCEB's current services to claimant satisfy RCEB's obligations to her under the Lanterman Developmental Disabilities Services Act (the Lanterman Act, Welf. & Inst. Code, § 4500 et seq.) and her Individual Program Plan (IPP)?

FACTUAL FINDINGS

1. Claimant is an adult who receives services from RCEB in accordance with the Lanterman Act. Her qualifying developmental disability is autism spectrum disorder.

2. Claimant and RCEB agreed on an initial IPP for claimant in January 2019. They have amended the IPP several times.

a. In June 2021, claimant and RCEB agreed on an IPP amendment calling for claimant to receive crisis support services through the CA START East Bay program (described in greater detail below). This June 2021 amendment also identifies habitability concerns about claimant's apartment as significant ongoing challenges for her.

b. In April 2022, claimant and RCEB negotiated a further amendment to claimant's IPP. They agreed (in pertinent part) that RCEB would assist claimant in identifying funding sources for disability-related modifications to her apartment, and would fund personal assistance services to her.

c. At the time of the hearing, claimant and her RCEB case manager were negotiating a new IPP. Claimant expressed guarded optimism at the hearing about these negotiations.

3. On June 16, 2022, claimant requested a fair hearing to address concerns about RCEB's ongoing services to her. Her fair hearing request states that claimant has "no RCEB services at the time of writing this request," and also that claimant wants "my IPP for START services to be fulfilled." Claimant's fair hearing request complained that claimant had not received records she had requested, but claimant stated at the hearing that she subsequently received the records.

RCEB Services Relating to Claimant's Apartment

4. Claimant lives alone, independently, in an apartment in a small multi-unit complex. Claimant experiences unpleasant sounds and vibration in her apartment, especially at night. She also believes that unhealthy airborne substances infiltrate her apartment, and she fears that someone has entered her apartment at times when she is not at home. Claimant attributes all these intrusions to a neighbor who lives in the apartment below hers.

5. In early 2022, with funding provided in part by RCEB, claimant arranged to replace the carpet in her apartment with acoustically insulated hard flooring. Claimant hoped that the new floor would reduce noise and vibration in her apartment, but the results have not satisfied her.

6. The evidence did not establish whether further physical modifications to claimant's apartment might resolve claimant's concerns about noise, vibration, air quality, or privacy. Even if such modifications are structurally possible, the evidence also did not establish whether they would be financially or legally feasible. The evidence did not establish whether claimant has any effective legal recourse against her neighbor or her landlord to address claimant's conflict with her neighbor, or how

long any such process might last. Claimant is unwilling even to consider the possibility of moving to a new residence.

7. To provide disability-related personal assistance to claimant, RCEB funds independent living skills (ILS) services for her. Claimant has been working with her ILS provider to identify additional modifications or interventions that might improve her apartment's habitability for her.

START Services

8. The CA START (California Systemic Therapeutic, Assessment, Resources, and Treatment) program offers crisis support for people who have both intellectual or developmental disability and mental illness. The Young Adult Institute (YAI) provides START services to RCEB consumers. In its service plan for claimant, YAI describes START as "a mental health support service for people with autism." The START program's goal is to "improve community supports and connections, improve treatment outcomes, and decrease the need for hospitalization and loss of community placement."

9. Claimant repeatedly has rejected YAI staff members' offers to provide service to her that is consistent with START's mission and with YAI's staff expertise. Claimant wishes instead for YAI staff members to help her resolve her concerns about her apartment's habitability. Claimant has not specified what assistance she believes YAI staff members can and should offer that would not duplicate efforts other service providers already are making or have made on claimant's behalf.

10. RCEB remains willing to pay YAI for providing START service to claimant, if claimant wishes to accept any such service from YAI.

LEGAL CONCLUSIONS

1. The Lanterman Act entitles claimant to an administrative fair hearing to review RCEB's service decisions. (Welf & Inst. Code, § 4710 et seq.) Claimant bears the burden in this matter to prove that the Lanterman Act requires RCEB to deliver the services and supports she requests.

2. Claimant's IPP describes the services RCEB will provide to her. (Welf & Inst. Code, § 4646.) As stated in Findings 2 and 10, RCEB has committed itself to funding START services for claimant and to funding personal assistance services. In addition, the matters stated in Finding 2 show RCEB's commitment to exploring funding mechanisms for further alterations to claimant's apartment, if and when claimant identifies alterations that she needs because of her qualifying developmental disability.

3. The matters stated in Findings 4 through 7 do not show that RCEB has failed to provide the housing-related services described in claimant's IPP. Likewise, the matters stated in Findings 8 through 10 do not show that RCEB has failed to provide START services to claimant.

ORDER

Claimant's request for an order directing RCEB to modify its services to her is denied.

DATE:

JULIET E. COX

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.