

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

**In the Matter of:**

**CLAIMANT**

**and**

**REGIONAL CENTER OF THE EAST BAY, Service Agency**

**DDS No. CS0020956**

**OAH No. 2024091041**

**DECISION**

Administrative Law Judge Karen Reichmann, State of California, Office of Administrative Hearings, served as the hearing officer and heard this matter on November 25, 2024, by videoconference.

Claimant was represented by his mother, who was assisted by Sarrita Adams, Ph.D. Claimant was not present.

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

The record closed and the matter was submitted for decision on November 25, 2024.

## **ISSUE**

May RCEB fund claimant's participation in the Creative Play Center's Home School Tot Time program?

## **FACTUAL FINDINGS**

1. Claimant is five years old and lives with his parents. Claimant is a regional center client due to a rare genetic condition, AUTS2 syndrome. Individuals with AUTS2 syndrome have borderline to severe intellectual disability and many display autism-like behaviors. Claimant is non-verbal. He is delayed in all areas, including gross motor skills.

2. Claimant lives in the Mt. Diablo Unified School District (District).

3. Claimant and RCEB are parties to an Individual Program Plan (IPP) dated October 7, 2024. Pursuant to the IPP, RCEB is funding respite, membership at Spirited Play Labs, and non-medical neuromovement therapy. During the summer of 2024, RCEB also funded swimming lessons and summer camp at Creative Play Center in Pleasant Hill.

4. Creative Play Center offers a program called Home School Tot Time for children who are four and five years old. The program takes place Mondays through Thursdays, from 9:30 a.m. to 12:30 p.m. each day. It is described as providing "enrichment activities for home school families" including "fun sensory activities, performing arts, crafts, culinary arts" and "interactive group circle time." The program costs \$465 per month and will run from September 2, 2024, through June 2, 2025.

5. Claimant's parents contacted RCEB in August 2024 to request funding for claimant to participate in the Home School Tot Time program.

6. On September 3, 2024, Victoria Bellido, claimant's case manager, sent claimant's parents a letter notifying them that RCEB would not fund the program because it cannot supplant a generic resource. Bellido noted that claimant had been offered educational services by the District, but had chosen not to accept the services offered. Bellido also offered resources to assist the family in working with the District to meet claimant's educational needs. A Notice of Action was attached to Bellido's letter.

7. Claimant appealed the Notice of Action. An informal meeting was held on October 7, 2024, with RCEB case manager supervisor Paul Mendoza. Mendoza sent claimant's parents a letter dated October 8, 2024, maintaining the decision not to fund the Home School Tot Time program.

8. Claimant has been attending the Home School Tot Time program since September 2024. His applied behavioral analysis behavioral technician (funded by his health insurer) assists him during the program. Claimant's mother explained that the program is a play-based cooperative and that there are always parent volunteers present. Many of the other children are homeschooled through a program called Visions. Her understanding is that the children receive academic instruction in the afternoons after attending the Home School Tot Time program.

9. Claimant's mother described how beneficial the program has been for claimant. He enjoys being around and socializing with the other children. Claimant and his mother also benefit from being around the other parents. They feel like they are part of a community. Claimant's mother noted that the District offered to place

claimant in an extensive needs special day class where he would have had only limited interactions with non-disabled peers. They visited the school and felt that claimant would be overwhelmed in that environment. Claimant's mother also noted that education is not compulsory in California until a child is age six, and that the decision not to accept the District's placement was based on the family's view that claimant is not yet ready to attend school. The family will continue to explore school options for the next school year.

10. Dr. Adams, a rare disease consultant, argued that the Home School Tot Time program is not an educational program. She described it as a "developmental program" that provides a setting for claimant to work on his adaptive living skills and allows him to socialize in the community with non-disabled peers. She argued that attendance in the program helps claimant with his IPP goals of increasing his independence and participating in social and recreational activities in the community.

11. Claimant's family has also requested that the District fund Home School Tot Time as an alternative to the extensive needs special day class. In a letter dated November 8, 2024, the District notified claimant's parents that it would not fund his participation in the program. The District expressed concerns that the program was not appropriate to meet claimant's needs, noting that the program was not certified by the state and not required to provide specialized academic instruction with trained special education teachers and staff. The District offered to arrange another meeting with the family to discuss claimant's placement and enrollment in a public school.

12. Bellido testified at the hearing, as did her case management supervisor, Ashley Henderson. They acknowledged that RCEB staff reached out to the District in the past but received no response. The release of information allowing them to communicate with the District expired and they are no longer allowed to contact the

District. RCEB has a specialist on staff who is available to advocate for claimant with the District if his parents desire assistance. The specialist could potentially help the family appeal the District's decision not to fund Home School Tot Time.

13. RCEB explained why it believes it is not permitted to fund claimant's participation in the program, regardless of whether the program is educational.

RCEB explained that if the program is educational, it is the responsibility of the District to provide educational services and RCEB is prohibited from supplanting this generic resource.

Even if the program is not educational, RCEB believes it cannot be funded because it takes place during traditional school hours, and claimant would not have time in his day or a need to participate in the program if he took advantage of the educational services offered by the District. RCEB noted that the District has been legally obligated to provide pre-educational and educational services to claimant since he turned three, and that the family's choice not to accept the services does not mean that there are no generic resources available to claimant.

14. RCEB staff were uncertain whether RCEB would fund participation in Home School Tot Time for a child who was attending an afternoon public school transitional kindergarten program. They were unaware of any clients in this situation.

## **LEGAL CONCLUSIONS**

1. Pursuant to the Lanterman Developmental Disabilities Services Act (Lanterman Act), the State of California accepts responsibility for persons with

developmental disabilities. (Welf. & Inst. Code, § 4500 et seq.)<sup>1</sup> 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. While regional centers have a duty to provide a wide array of services to implement the goals and objectives of the IPP, they are also directed by the Legislature to provide services in a cost-effective manner. (§ 4646, subd. (a).) Regional centers must identify and pursue all possible alternative sources of funding when determining whether to fund a requested service. (§§ 4659, subd. (a)(1), 4646.4.)

3. Section 4648, subdivision (a)(8), provides that:

Regional center funds shall not be used to supplant the budget of any agency which has a legal responsibility to serve all members of the general public and is receiving public funds for providing those services.

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<sup>1</sup> All statutory references are to the Welfare and Institutions Code.

4. Claimant has requested that RCEB fund his participation in Home School Tot Time, a program that operates during traditional school hours and provides at least some activities that are similar to the activities in a traditional transitional kindergarten setting. The District is legally obligated to provide educational services to claimant and has offered to do so. While claimant's parents are within their rights to decline the District's placement and instead participate in the Home School Tot Time program, this does not change the fact that there are generic resources available to claimant to serve his needs. RCEB correctly determined that funding the program would violate its duty to refrain from duplicating other publicly-funded resources.

## **ORDER**

Claimant's appeal is denied.

DATE:

KAREN REICHMANN

Administrative Law Judge

Office of Administrative Hearings

## **NOTICE**

This is the final administrative decision. Each party is bound by this decision. Either party may request reconsideration pursuant to subdivision (b) of Welfare and Institutions Code section 4713 within 15 days of receiving the decision, or appeal the decision to a court of competent jurisdiction within 180 days of receiving the final decision.