

**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. 2022030809

DECISION

Administrative Law Judge Traci C. Belmore, State of California, Office of Administrative Hearings, heard this matter on April 20, 2022, by videoconference.

Claimant represented herself.

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

The matter was submitted for decision on April 20, 2022.

ISSUE

Does claimant have a functional Individual Program Plan (IPP)?

FACTUAL FINDINGS

1. Claimant is a 57-year-old consumer of regional center services due to a recent diagnosis of autism. Claimant is extremely sensitive to loud noises and vibrations. She has lived independently in an apartment since March 2020. Due to claimant's sensitivity, the flooring in her apartment was replaced and underflooring installed.

2. On March 16, 2022, claimant submitted a fair hearing request stating, "no functional IPP, RCEB does not provide an IPP that serves me." Claimant stated that what was needed to resolve her complaint was a Person-Centered Planning (PCP) provider to develop her IPP and then later that same PCP provider would assist her to transition to the Self Determination Program."

3. Prior to complainant's fair hearing request, her last IPP was signed on January 31, 2019. Two subsequent addendums were signed on February 23, 2021, and June 10, 2021.

4. On April 13, 2022, Jeff Nagafuji, claimant's RCEB case worker, met with claimant and two support individuals, Emma Martin and Benjamin Chen via Zoom. Nagafuji drafted an IPP and shared it with claimant. Claimant objected to some of the language contained in the draft. Nagafuji made the edits suggested by claimant signed it and sent it to claimant to sign.

5. The IPP signed by Nagafuji addressed several issues, including exploring funding for additional disability modifications, finding general contractors and acoustic engineers for sound proofing in claimant's apartment, providing a PCP

provider funded by RCEB, and ensuring that RCEB contacts claimant before any outside agency contacts her.

6. Claimant refused to sign the IPP. Instead, claimant submitted a document to RCEB as an IPP addendum. Claimant's document varied in three ways from the RCEB IPP. Claimant's version changed RCEB will "explore funding" to RCEB "will fund" her disability modifications, RCEB would agree to status meetings with claimant every one to two weeks, and it was an addendum to her previous IPP rather than a new IPP.

7. Nagafuji credibly testified that RCEB was statutorily barred from guaranteeing funding for some of the disability modifications claimant was requesting and therefore could not agree to fund them.¹ However, RCEB can look for funding from other sources. Nagafuji stated if a change was made to the wording about funding claimant's disability modifications, he would sign claimant's amendment.

8. At hearing, when provided with that alternative, claimant became visibly upset and stated it would not suffice. Claimant wanted a guarantee of funding and a timeline for her disability modifications (although other than soundproofing a wall in her apartment, she did not state with any specificity what those modifications were).

9. The IPP referenced in claimant's fair hearing request was completed on April 13, 2022 and is awaiting claimant's signature. RCEB has continued to work with claimant and provide support for her needs.

¹ These issues were addressed in RCEB's favor in several prior proceedings before this office.

LEGAL CONCLUSIONS

1. Claimant has the burden of proving by a preponderance of the evidence her eligibility for government-funded services. (*Lindsay v. San Diego Retirement Board* (1964) 231 Cal.App.2d 156, 161; Evidence Code, §§ 115, 500.)

2. The Lanterman Developmental Disabilities Services Act (the 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.” (Welf. & Inst. Code, § 4501.) While regional centers have a duty to provide a wide array of services, they are also directed to provide services in a cost-effective manner. (*Id.*, § 4646, subd. (a).)

3. The purpose of the Act is to rectify the problem of inadequate treatment and services for the developmentally disabled and to enable developmentally disabled individuals to lead independent and productive lives in the least restrictive setting possible. (*Id.*, §§ 4501, 4502, subd. (b)(3); *Association for Retarded Citizens v. Department of Developmental Services* (1985) 38 Cal.3d 384.) The Act is a remedial statute; as such, it must be interpreted broadly. (*California State Restaurant Association v. Whitlow* (1976) 58 Cal.App.3d 340, 347.)

4. At the time of her fair hearing request, Claimant’s IPP was over three years old. However, it was modified in 2019 and 2021. RCEB developed a new IPP with claimant on April 13, 2022, which claimant refused to sign. (Factual Findings 4 & 5.) The IPP addresses the issues raised by claimant and with few exceptions is almost identical to the IPP amendment drafted by claimant. (Factual Finding 6.) RCEB is willing to sign claimant’s IPP amendment except to the extent it requires RCEB to provide

funds that RCEB is prohibited from providing. Claimant has not met her burden of proving that she does not have a functional IPP.

ORDER

Claimant's appeal is denied.

DATE:

TRACI C. BELMORE
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.