BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of: **JULIAN K.** Claimant, vs. **HARBOR REGIONAL CENTER,** Service Agency.	OAH Case No. L 2006090846

DECISION

This case was heard by Chris Ruiz, Administrative Law Judge, Office of Administrative Hearings, State of California, at the Harbor Regional Center in Torrance, California, on November 27, 2006, and January 29-30, 2007.

Bruce Bothwell, Esq., represented Claimant.[1]

Mona Z. Hanna, Esq., represented the Harbor Regional Center (HRC or the Service Agency.)

Oral and documentary evidence was received. The record was left open until February 13, 2007, in order for the parties to submit closing briefs. Claimant's closing brief was received and marked as Exhibit 86. HRC's closing brief was received and marked as Exhibit DDD. The matter was submitted for decision on February 13, 2007, and this decision was due on March 13, 2007, by agreement of the parties.

ISSUES

1. Shall HRC fund for Claimant a 40 hours per-week program of applied behavior analysis therapy (ABA) and all related supervision provided by California Unified Service Providers (CUSP)?

2. Shall HRC be required to reimburse Claimant for the CUSP program initiated by the family?

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[1] Claimant and his family are referred to by their initials or family titles to protect their confidentiality.

FACTUAL FINDINGS

Jurisdictional Information

1. In June or July 2006, Claimant requested that HRC fund an ABA program for him.

2. On September 13, 2006, HRC sent a letter which did not deny Claimant's request, but it also did not agree to provide the requested service. The letter further informed Claimant of his fair hearing appeal rights. As such, this letter amounted to a denial of the service requested. The letter indicated that HRC wanted to conduct its own assessment of Claimant's need for ABA, that assessment to be conducted by Autism Spectrum Therapies (AST). (Exhibit GG.)

3. On September 26, 2006, Claimant filed a Request for Fair Hearing.

Claimant's Background

4. Claimant is a six-year-old consumer of HRC pursuant to his diagnosis of autism. Claimant has severe global deficits, delayed communication skills, delayed social and self-help skills, self-stimulatory and tantrum behaviors, as well as displays of aggression toward his family and others. His family presently receives 24 hours of respite per month.

5. Prior to age of 5, Claimant attended LAUNCH preschool, which is a special education program within Torrance Unified School District (TUSD). His Designated Instructional Services (DIS) included speech and occupational therapy and ASSIST/BRIDGE ABA services. Claimant also participated in the Smile program, which is a social skills group.

6. On January 9, 2006, and April 26, 2006, IEP meetings were held to discuss Claimant's transition from pre-school to kindergarten. At that time, Claimant attended Kid Zone, a typical pre-school program, with extra adult support. Claimant was offered a kindergarten placement in a typical classroom, with support. TUSD informed Claimant's parents that Claimant was making good progress in all areas. As such, Claimant's parents agreed to the placement suggested by TUSD. Mother did have some reservations about the plan because Claimant's behavior at home was worse than Claimant's reported behavior at school. However, she was assured by school personnel that Claimant's behavior at school was acceptable.

7. In May 2006, in preparation for Claimant's kindergarten placement in September 2006, Mother took Claimant to a "Kindergarten Roundup." At the Roundup, the children had an opportunity to see their classroom for the upcoming school year. During the Roundup, Claimant took off his clothes, urinated on the carpet, and then ran from the classroom. This caused Mother great distress. Mother was also concerned about whether the

kindergarten placement in a typical classroom was an appropriate placement for Claimant and whether the school district had been properly assessing Claimant's progress.

8. At about that time, the parents obtained two evaluations of Claimant. The first was an April 13, 2006 evaluation by UCLA. That evaluation concluded that Claimant would benefit from an individualized education program where he was fully included with typically developing peers and had access to a classroom aide who could adjust the curriculum to his learning needs. (Exhibit HH.)

9. The parents also obtained a psychological evaluation from Robin Morris, Psy.D. (Exhibit JJ.) Dr. Morris' June 5, 2006 report states that the evaluation was sought by the parents due to their concerns following the Kindergarten Roundup. Dr. Morris recommended a typical kindergarten school program, with a one-to-one aide, and 15 hours of in-home ABA.

10. In June or July of 2006, Claimant requested that HRC fund ABA. An Individual Family Support Plan (IFSP) was initiated in August of 2006. At the time of the IFSP, all the reports and IEP's recommended Claimant be placed in a school program in a typical kindergarten classroom. There was no report which recommended that Claimant be removed from the school program and placed in a 40 hour in-home ABA program. Dr. Morris had previously only recommended 15 hours of in-home ABA, in conjunction with placement in a typical classroom. In response to Claimant's request, HRC requested an independent assessment with an ABA assessor and provider, namely, AST. (Exhibit LL.)

11. In August 2006, Claimant sought, and self-funded, an evaluation with CUSP. CUSP did not prepare a report until October of 2006, and that report was not provided to HRC until November 16, 2006. CUSP apparently recommended that Claimant be removed from the school program and that a 40 hour per week ABA program be initiated in the home. However, the evidence did not establish whether that recommendation was made in August, or sometime after the 2006 school year began in September.

12. On September 5, 2006, HRC offered to provide 10 hours per week of ABA. In sum, HRC's position was that it should only fund ABA that was related to Claimant's home-based or community needs, such as self-care (dressing and using the toilet) and at-home behaviors. HRC contends that ABA related to academic needs and goals should be funded by TUSD. HRC did not begin funding ABA for Claimant at this time. Rather, HRC advised Claimant of the previously discussed need to have an assessment conducted by AST.

13. On September 18, 2006, Claimant's parents removed him from school. Claimant was then in a general education kindergarten classroom with a one-to-one aide. Mother testified that Claimant was in school for approximately 18 days, of which she observed one-hour increments on 12 separate occasions. Mother observed that Claimant's behavior in the classroom was poor, that Claimant did not participate, and that Claimant's aide appeared to assist the teacher, rather than Claimant. Thus, it was established that Claimant's parents did not act in bad-faith in removing Claimant from the TUSD.

14. Claimant's parents initially disagreed with having AST conduct an assessment of Claimant. However, on September 29, 2006, they changed their minds and indicated their agreement to HRC's request. Thereafter, AST advised HRC that it was not willing to assess Claimant for the reasons stated directly below. This information was never communicated to Claimant and HRC never suggested an alternate assessor.

15. AST had previously evaluated Claimant in 2004. In 2004, AST concluded that Claimant required 15 hours per week of ABA. At that time, the parents were satisfied with the behavioral therapy provided by the school district. Mother also incorrectly believed that she had to chose between TUSD's offer of ABA and HRC's offer of ABA. As such, she chose TUSD.

16. In 2006, AST declined to perform another assessment because the parents had declined to previously utilize AST as a provider. When AST declined to perform the independent assessment, HRC should have suggested an alternate assessor. HRC did not do so and can not now argue that the parents failed to cooperate with HRC's request for an independent assessment.

17. On October 6, 2006, Claimant's parents attended an IEP meeting with TUSD and requested that TUSD fund Claimant's ABA program with CUSP. Mother had not advised TUSD that CUSP had begun to provide services to Claimant before such service began. Mother advised TUSD, after approximately eight days of kindergarten, that she was removing Claimant from school. TUSD refused to fund in-home ABA for Claimant and Claimant's parents have filed a request for fair hearing with respect to TUSD's denial. That proceeding is currently pending.

18. On November 6, 2006, Dr. Morris issued a report in which her opinion changed. Dr. Morris opined that the CUSP program was more appropriate for Claimant than a typical school setting.

Evidence from CUSP

19. HRC received CUSP's report, dated October 15, 2006, on November 16, 2006, approximately ten days before the first day of hearing in this matter.

20. Sebastien Bosch, Ph.D, B.C.B.A., the clinical director of CUSP, was called by Claimant to testify. He testified that it was his recommendation that Claimant be removed from the school program. He was unable to state exactly when he formed that opinion. As to his knowledge of Claimant's program at school, Dr. Bosch testified that he neither observed Claimant at school, nor did he speak with any school personnel.

21. Dr. Bosch further testified that according to the IEPs for Claimant, Claimant appeared to have mastered some goals in the school setting that he had not generalized to home and community. However, Dr. Bosch had no personal knowledge of the goals

Claimant acquired in the school program as he had not spoken any of the TUSD staff regarding Claimant's program.

22. Dr. Bosch testified that his report was based on his own assessment, as well as a review of the January 2006 IEP, the April 2006 UCLA evaluation, and the June 2006 evaluation by Dr. Morris. Dr. Bosch acknowledged that all of these reports recommended that Claimant maintain his placement in a typical kindergarten classroom with an aid.

23. Dr. Bosch acknowledged that it is difficult to divide the service CUSP provides for Claimant into services which can be classified as solely related to "home" or "school." CUSP has developed 17 goals to address Claimant's deficits and all of them are designed to improve his ability to function at home and in the community, as well as school. Dr. Bosch's estimate was that 50 percent of said services are intended to assist Claimant with his home and community life, the remainder to assist Claimant in his academic endeavors. He indicated that Claimant may be ready for a school setting in a couple of months. Claimant was non-verbal when he first met Dr. Bosch and Claimant has shown much improvement after receiving treatment from CUSP.

24. CUSP provided ABA to Claimant from September 8, 2006, to October, 2, 2006, at an average rate of 28 hours per week. From October 3, 2006, and continuing, CUSP has provided 40 hours per week of ABA to Claimant. CUSP also provides, and has billed Claimant for, 12 hours per month of supervision support and 16 hours per month of technician support.

25. CUSP is an approved vendor for HRC. When utilized as a vendor, CUSP bills HRC $45 per hour for ABA, and that amount includes all subcategories (supervision and technician support time).

26. On December 1, 2006, HRC began funding 10 hours of ABA therapy provided by CUSP. HRC's purchase of service order for ABA for Claimant was due to expire on February 28, 2007.

LEGAL DISCUSSION AND CONCLUSIONS

Jurisdiction & Burdens of Proof

1. The Lanterman Developmental Disabilities Act (Lanterman Act) governs this case. (Welfare and Institutions Code[2] §§ 4500 et seq.) A state level fair hearing to determine the rights and obligations of the parties, if any, is referred to as an appeal of the service agency's decision. Claimant properly and timely presented a fair hearing request and otherwise established jurisdiction for this case. (Factual Findings 1-3.)

[2] All citations are to the Welfare and Institutions Code unless otherwise noted.

2. Except as otherwise provided by law, a party has the burden of proof to establish each fact, the existence or nonexistence of which is essential to the claim for relief or defense that he/she/it is asserting. (Evidence Code § 500.) Where a claimant seeks to establish eligibility for government benefits or services not previously funded, the burden of proof is on him. (*See*, e.g., *Lindsay v. San Diego Retirement Bd.* (1964) 231 Cal.App.2d 156, 161 (disability benefits); *Greatorex v. Board of Admin.* (1979) 91 Cal.App.3d 54, 57 (retirement benefits).) However, a service agency seeking to change a service previously provided to a claimant has the burden to demonstrate its decision is correct. In this case, Claimant seeks funding for ABA services from the Service Agency. Therefore, Claimant carries the burden of proof.

Responsibility Under the Law to Provide Services

3. The Individuals with Disabilities in Education Act (20 U.S.C. § 1400 et seq.) (IDEA) is a federal law that provides funding for education programs for disabled students in states that choose to participate in that federal program. California has chosen to participate. (Education Code §§ 56340 – 56449.)

4. Persons afflicted with autism are entitled to services under the Lanterman Act, section 4512, subdivision (a), and under IDEA. (20 U.S.C. § 602(3)(b)(i)). Both acts include "education" in defining the services to be provided to qualified persons. (§ 4512, subd. (b); 20 U.S.C. § 602, subd. (8) and (22), which define "free appropriate public education" and "related services.")

5. IDEA and its special education programs are administered in California by the state's local educational agencies. In this case, that agency is TUSD. Services and supports for autistic children available under the Lanterman Act are administered by California's Regional Centers, also know as service agencies. In this case, HRC is the service agency.

6. Section 4501 requires the state, through the agency of the regional centers, to provide an array of services and supports which is sufficiently complete to meet the needs and choices of each person with developmental disabilities. In order to achieve this goal, section 4646, subdivision (b) requires that an Individual Program Plan (IPP) or IFSP to be developed for all consumers within 60 days of the determination of eligibility. It is the Service Agency's responsibility to ensure that the IPP process is accomplished.

7. For reasons not explained in the evidence, the Service Agency prepared an IFSP. An IFSP is generally only appropriate for a consumer under age three who is receiving services under a program known as Early Start. Claimant is presently six years old. When agreement cannot be reached on all aspects of the IPP, those services on which the parties agree can be implemented while disagreement about disputed services are being resolved. (Factual Finding 10.)

8. Claimant and TUSD are presently engaged in a dispute over the level of services offered by TUSD. It is important to note that this decision in no way decides the

dispute between TUSD and Claimant. Those issues need to be resolved by a special education fair hearing and that process is currently ongoing. (Factual Findings 13 and 17.)

9. The critical evaluation in this case is the present situation. Claimant is not presently receiving any services from TUSD. After having heard all of the evidence, it was established that Claimant's parents believe TUSD is incorrect in its decision and Claimant is not merely attempting to avoid utilizing TUSD so as to make HRC fund Claimant's needs. Therefore, HRC's argument that TUSD should fund services related to Claimant's academic needs is generally true, but inapplicable in this case. The fact remains that TUSD is not providing services to Claimant. That being the case, the Service Agency is not, therefore, precluded by section 4648, subdivision (a)(8), from funding support for ABA, if needed, because there is no evidence that such expenditure will "supplant" the special education budget of the school district. (Factual Findings 13 and 17.)

10. In general, in rendering services of education and training for autistic persons over the age of three years, it is the primary responsibility of the school district to use its available funds for such purpose, with ultimate responsibility for any unmet needs to be funded by the service agency (§ 4648, subd. (f); and compare IDEA, § 602, subd. (8) and (22), with §§ 4512, subd. (b), 4648 subd. (a)(8), and 4648 subd. (f)).

11. Here, there is an unmet need. Claimant is presently receiving no services from TUSD. Funding for this unmet need, sufficient to meet the established needs of this Claimant, is the responsibility of the HRC (§§ 4500, 4501 and 4648, subd. (f)).

HRC's Contentions

12. The Service Agency's denial of the request for agency funding for DTT is predicated on its contentions that:

a. ABA is primarily educational in nature, and funding of an educational program is the duty of the school district, not the Service Agency; and

b. The local school district, as a "generic" resource for funding educational programs, should be pursued before the Service Agency is asked to provide such services.

13. The Service Agency starts with the generally accepted premise that Claimant's school district is responsible for providing him with educational services. The Service Agency then defines the word "educational" to encompass any activity that involves learning. Applying this definition to ABA, the Service Agency contends that the majority of the ABA that Claimant seeks is educational. Therefore, the Service Agency concludes, since ABA is mostly educational, the school district is the agency legally required to provide the majority of such services to Claimant. HRC also contends that it is prohibited from funding ABA related to education by section 4648, subdivision (a)(8), which prohibits regional centers from using their funds to supplant those of a "generic" agency such as the school district.

14. The Service Agency's contentions are not convincing. The definition of education that the Service Agency is using is too broad. If this definition of education was applied to all of the Service Agency's school-aged consumers, the result would be to effectively eliminate any responsibility to provide services to its school-aged consumers. Such a reading is clearly at odds with the mandate of the Lanterman Act.

15. ABA can assist Claimant because, without successful behavior modification, Claimant will never be successfully integrated into the classroom, which is the ultimate goal of IDEA. It is equally true that, unless Claimant's behavior is successfully modified, he will never be able to be successfully integrated into the community, which is the goal of the Lanterman Act. Ultimately, it is the Service Agency's obligation to see that Claimant receives the supports and services he needs to be a functioning member of society, if possible.

16. In fact, the Lanterman Act specifically contemplates such a responsibility. Section 4512, subdivision (b), provides a definition of the phrase "Services and supports for persons with developmental disabilities." *Inter alia*, the section states:

> "Services and supports listed in the individual program plan may include, but are not limited to, diagnosis, evaluation, treatment, personal care, day care, domicilary care, special living arrangements, physical, occupational and speech therapy, <u>training</u>, <u>education</u>, supported and sheltered employment, mental health services, recreation, counseling . . . protective and other social services, follow-along services, adaptive equipment and supplies, advocacy assistance . . . <u>social skills training</u>; . . . ." (Emphasis added.)

17. Another difficulty with HRC's position is that it assumes that the school district is required by IDEA to make available to the consumer the same level of services and supports as the regional center is required to provide by the Lanterman Act. That assumption is incorrect. In *Hendrick Hudson Dist. Bd. Of Ed.* v. *Rowley* (1982) 458 U.S. 176, the Supreme Court considered the level of services which the federal law mandated and held that

> "Insofar as a State is required to provide a handicapped child with a 'free appropriate public education,' we hold that it satisfies this requirement by providing personalized instruction with sufficient support services to permit the child to benefit educationally from that instruction."

18. In contrast, the Lanterman Act envisions a much higher standard and requires regional centers, as the agents of the state, to provide developmentally disabled people with those services and supports that will allow them, "regardless of age or degree of disability, and at each stage of life" to integrate "into the mainstream life of the community" and to "approximate the pattern of everyday living available to people without disabilities of the same age." (§ 4501.) The Act also states that persons with developmental disabilities have the right to treatment and habilitation services and supports which foster the individual's

developmental potential and are "directed toward the achievement of the most independent, productive and normal lives possible." (§ 4502.) The Act also contemplates that the regional centers will work with consumers and their families to secure "those services and supports which maximize opportunities and choices for living, working, learning and recreating in the community." (Emphasis added.)

19. Thus, when a generic agency fails or refuses to provide a regional center consumer with those supports and services which are needed to allow that person to maximize their potential for a normal life, the Lanterman Act requires the regional centers to provide the service shortfall.

20. If HRC feels that the school district has failed to provide services to Claimant that IDEA requires it to provide, it has the authority to pursue reimbursement under section 4659, subdivision (a), which provides that "the regional center shall identify and pursue all possible sources of funding for consumers receiving regional center services. These sources shall include, but not be limited to, . . . (1) Governmental or other entities or programs required to provide or pay the cost of providing services."

21. It was established that Claimant can benefit, and is benefiting, from the in-home ABA provided by CUSP to date. The Service Agency presented insufficient evidence to establish that Claimant should not receive the ABA services recommended for him, other than its conclusory opinion that 10 hours is sufficient. In sum, the only qualified and competent evidence of Claimant's present needs was established by Dr. Bosch. While he did not speak with, or consider the opinions of, TUSD personnel, his opinion regarding Claimant's present needs is uncontradicted. CUSP is, therefore, an appropriate provider for DTT services. (Factual Findings 19-26.)

22. In an all-inclusive program such as that provided for Claimant, it is not possible to accurately determine which aspects of the program are "educational" or "cognitive" (and primarily the responsibility of the school district) and which are "adaptive" or "behavioral" (and primarily the responsibility of the Service Agency). There are major components of both incorporated into Claimant's ABA program and the components cannot be separated; they are inextricably intertwined. Similarly, one cannot divide a child into two independent realms – one cognitive/educational and the other one adaptive/behavioral. Each of those aspects of a child's being is inextricably intertwined with the other. In any event, as discussed above, Claimant is presently not receiving any support from TUSD. In such a situation, HRC is required to provide Claimant with sufficient support and seek reimbursement from TUSD. (Factual Findings 4-26.)

Claimant's Request for Reimbursement

23. The Lanterman Act does not specifically authorize retroactive reimbursement of costs to families in the fair hearing context. The statutes detailing the IPP process suggest the opposite. (§§ 4646 and 4646.5, subd. (a)(1)(2).) The IPP process necessarily requires

prior service agency consideration and approval of any support or service provided to an individual consumer and suggests that reimbursement is not typically available.

24. However, the lack of specific statutory authorization is not necessarily dispositive of the issue. If the Lanterman Act is to be applied as the Legislature intended, reimbursement may be available in particular cases where equity requires it. Thus, based on the general principles articulated in *Association for Retarded Citizens* v. *Department of Developmental Services* (1985) 38 Cal.3d 384, some fair hearing cases previously decided by the Office of Administrative Hearings have ordered reimbursement when the principles of equity apply, or when if not granted, the purposes of the Lanterman Act would be thwarted.

25. In this case, if reimbursement were not ordered, the intent of the Lanterman Act would be frustrated for the reasons stated below.

26. TUSD and Claimant are presently engaged in a dispute over the level of services to be provided by TUSD. While the issues between TUSD and Claimant have yet to be decided, Claimants parents did not act in bad-faith in removing Claimant from TUSD, and therefore it was not established that Claimant failed to utilize a generic resource. In this case, Mother observed her Claimant in kindergarten and credibly testified that she felt he was not gaining from his educational experience. Therefore, her subsequent removal of Claimant from school was not in bad faith. (Factual Findings 13 and 17.)

27. At the time the Service Agency denied Claimant's request for funding for his CUSP program, it knew that, unless Claimant's family paid for his ABA program, he would not receive any ABA services he needed to maximize his potential to live a normal life. This is especially true because HRC had already determined that Claimant needed 10 hours per week of ABA, and yet it did not fund said hours. Under these circumstances, reimbursement is appropriate to avoid frustrating the principles and purposes of the Lanterman Act. (Factual Findings 4-26.)

28. There was no evidence of the relief sought by Claimant and her family in the due process hearing against TUSD. It is possible that Claimant is also seeking reimbursement of these same expenses in that proceeding. A double recovery would not be fair or equitable. If Claimant receives restitution from TUSD for some or all of the CUSP program costs, the amount of reimbursement owed to the parents by HRC will be reduced by the amount of that repayment. However, until Claimant has completed the appeals process with the school district that issue will not be resolved. It would be unfair to ask Claimant to wait until the education issues are resolved to receive any of the restitution. On the other hand, it would be unfair to require HRC to pay restitution for services for which it is ultimately not responsible. An equitable resolution of this issue would be for HRC to pay the reimbursement determined below within 30 days after the date of this Decision. When the question of restitution from TUSD is resolved and if TUSD is found liable to Claimant's family for any of the ABA expenses, the amount of that liability should be repaid to HRC. (Factual Findings 4-26, Legal Conclusion 20.)

29. Reimbursement should be only ordered for costs accrued for services rendered after Claimant's family made a specific request for services. The request made during the IFSP meeting in August 2006 was not specific enough because there was no report that suggested a 40-hour-per-week ABA program was necessary. Further, Claimant's family at that time was in agreement with the TUSD's plan. (Factual Findings 11-12.)

30. The written request for Service Agency funding in August 2006, combined with service of the CUSP report on HRC on November 16, 2006, is sufficiently specific to place the Service Agency on notice as of November 16, 2006. Therefore, the earliest date at which full reimbursement is appropriate is November 16, 2006. (Factual Findings 11 and 18.) Before that date, reimbursement should be limited to 10 hours because HRC offered, but did not fund, that amount.

31. As such, Claimant's needs must be analyzed. The two medical opinions relied upon in this case are Dr. Morris and Dr. Bosch. HRC did not offer an independent assessment. In sum, Dr. Bosch recommended 40 hours of ABA and Dr. Morris, in June 2006, recommended 15 hours of ABA, and a school setting in a typical classroom with a one-to-one aide. It is noted that Dr. Morris continued to recommend that Claimant be placed in a typical classroom even after Claimant's "blow-up" at the Kindergarten Round-up. However, Dr. Morris changed her opinion in her report, dated November 6, 2006, wherein she indicated the CUSP program was more appropriate for Claimant. While Dr. Bosch's opinion differs from the school professionals, his testimony regarding Claimant's capabilities at the time of his first assessment, and Claimant's improvements with CUSP treatment, were credible. Dr. Bosch and Dr. Morris are the only qualified experts that assessed Claimant's needs at or about the time his parents removed Claimant from school. Therefore, Claimant carried his burden and established Claimant's need for a 40 hour per week ABA program. (Factual Findings 4-26.)

32. HRC contends that the rate of reimbursement should not be greater than that which CUSP normally charges HRC as a vendor ($45 per hour.) However, such an application would penalize Claimant who has already paid some of the CUSP bills which are in excess of the vendored rate. Additionally, HRC could have agreed to use CUSP as a vendor on or about November 2006 and could have limited and reduced its expense. HRC chose not to do so. Claimant should not bear the additional expense because HRC chose to proceed to a fair hearing. (Factual Findings 4-26.)

ORDER

WHEREFORE, THE FOLLOWING ORDER is hereby made:

1. Claimant's request for funding by the Service Agency for his existing and recommended ABA program supervised by CUSP is granted.

2. Claimant's request for reimbursement of his ABA program expenses previously incurred by his family in paying for the ABA provided by CUSP is granted in part, and denied in part. Claimant shall be reimbursed 25 percent of the total cost of CUSP services for the period of time from September 5, 2005 to November 16, 2006, because HRC had offered 10 hours per week, or 25 percent of a 40 hour week. Claimant's request for reimbursement from November 17, 2006, to the effective date of this decision, is granted in full.

3. As of the date of this decision, HRC shall begin funding for Claimant's 40-hour-per week ABA program provided by CUSP. This decision in no way limits HRC's ability to utilize CUSP as a vendored service provider for Claimant after the effective date of this order.

DATED: March ___, 2007

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CHRIS RUIZ,
Administrative Law Judge
Office of Administrative Hearings

NOTICE

This is the final administrative decision pursuant to Welfare and Institutions Code section 4712.5(b)(2). Both parties are bound by this decision. Either party may appeal this decision to a court of competent jurisdiction within 90 days.