BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of: Safari M. Claimant, vs. VALLEY MOUNTAIN REGIONAL CENTER, Service Agency.	OAH No. N 2006110667

DECISION

On February 21, 2007, in Stockton, California, Ann Elizabeth Sarli, Administrative Law Judge, Office of Administrative Hearings (OAH), State of California, heard this matter.

Claimant was represented by his parent D.C. (parent).

The Service Agency, Valley Mountain Regional Center (VMRC), was represented by Anthony Hill, Special Projects Manager.

Oral argument was received; the record remained open to allow Mr. Hill and parent to submit letter briefs. On February 23, 2007, Mr. Hill's letter brief was filed with OAH. Parent did not submit a brief.

ISSUE

The issue presented in this proceeding is whether a parent of an adult regional center client, who is neither a conservator nor a legal guardian of the client, may bar the regional center from providing services and supports to the client.

PROCEDURAL FINDINGS

1. Claimant is a twenty–two year old client of VMRC. Claimant is currently placed by Court Order in the custody of Porterville Developmental Center. He did not appear at hearing, and his parent appeared, ostensibly on his behalf.

2. Claimant's Fair Hearing Request (FHR) was filed on November 21, 2006. Claimant's parent signed the FHR under the section "Requester's Name if Not the Claimant." The section of the FHR for authorization of a representative was not completed. Claimant's signature did not appear anywhere on the FHR.

3. OAH issued an Order Dismissing Appeal on the grounds that claimant is an adult, had not signed the FHR, and his parent had not been appointed as a guardian or conservator. Claimant subsequently signed a FHR, but did not sign the authorization identifying any individual to represent him. His signature appears in the area entitled "Signature of Claimant or Authorized Representative." Thus, it is not clear that claimant designated his parent as his authorized representative in this proceeding, or that he knew and understood the nature of the FHR.

4. The FHR asks, among other things, that claimant be withdrawn as a client of the regional center. Claimant's parent writes in the FHR that is she unhappy with the manner in which she and her son have interacted with regional center personnel. She believes they have been treated poorly, and therefore requests that claimant no longer be considered a regional center client. [1]

DECISION ON ISSUE

1. "Parental authority ceases by operation of law when the child reaches the age of majority." (*In re Marriage of Jensen*, (2003) 114 Cal.App.4th 587, 594 - 595 (hereafter *Jensen*); Fam. Code, § 7505, subd. (c).)[2]

2. Persons with developmental disabilities have the same legal rights and responsibilities guaranteed all other individuals by the United States Constitution and laws and the Constitution and laws of the State of California, including the right to make choices in their own lives about program planning and implementation. (Welf. & Inst. Code § 4502, subd. (j).) Regional centers shall respect the choices made by consumers or, where appropriate, their parents, legal guardian, or conservator. (Welf. & Inst. Code § 4502.1.)

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[1] Claimant's parent had several vague complainants about mistreatment and denial of rights over the years her son has been a client of VMRC. It was determined at hearing that the only justicible issue which could be addressed under the Lanterman Act is the issue of withdrawal of claimant from regional center services.

[2] The age of majority is 18 years of age. (Fam. Code § 6500.)

3. Absent a showing that a developmentally disabled adult has been the subject of a guardianship or conservatorship, he or she is presumed to have the capacity to make personal decisions. (*Jensen*, *supra*, 114 Cal.App.4th at 595.) In *Jensen*, the father of an adult autistic child sought an order enforcing a marital settlement agreement with the mother requiring that the adult autistic child visit him. (*Id.* at 591-592). The father argued that parental authority to assist the adult child's visitation was required because of his son's developmental disability, which prevented him from "communicating normally or being independent." Rejecting the father's argument, the court reasoned that Family code section 7505 operates to cease parental authority over a child when he or she becomes an adult, irrespective of the adult child's disability, and the adult child is presumed to have the capacity to make personal decisions absent evidence of a guardianship or conservatorship. (*Id.* At 595; Fam. Code, § 7505, subd. (c).)

4. Claimant's parent may not withdraw regional center services for him, unless the parent becomes conservator or guardian, or claimant knowingly and intelligently consents to the withdrawal. Claimant has the right to make choices in his own life about regional center programs and implementation, which includes, as a threshold matter, whether to receive regional center services and supports at all. (Welf. & Inst. Code § 4502, subd. (j).) Welfare and Institutions Code section 4502.1, which requires that regional centers respect consumer decisions, implies that the consumer's consent must be obtained before the regional center acts to withdraw services and supports for which the consumer is eligible. Since the parent appears to have unilaterally requested that the regional center withdraw claimant's services and supports without his consent, the parent's request is insufficient to effect a withdrawal.

ORDER

The Fair Hearing Request for an order directing the Valley Mountain Regional Center to remove claimant from regional center services is Denied.

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 of receipt of this Decision.

Dated: March 5, 2007

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ANN ELIZABETH SARLI
Administrative Law Judge
Office of Administrative Hearings