

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

K.T.,

Claimant,

vs.

WESTSIDE REGIONAL CENTER,

Service Agency.

OAH No. 2011110429

DECISION

Amy C. Yerkey, Administrative Law Judge with the Office of Administrative Hearings, heard this matter on January 10, 2012, in Culver City, California.

Amy T., Claimant's mother, represented K.T. (Claimant).¹

Lisa Basiri represented the Westside Regional Center (WRC or Service Agency or regional center).

Oral and documentary evidence was received at the hearing. The parties submitted the matter for decision on January 10, 2012.

ISSUE

The question in this matter is whether WRC may reduce funding of behavioral intervention services for Claimant.

¹ Initials have been used to protect Claimant's privacy.

EVIDENCE RELIED UPON

Documentary: Service Agency's exhibits 1-17.

Testimonial: Soryl Markowitz; Claimant's mother.

FACTUAL FINDINGS

1. Claimant is an eight-year-old female, who is eligible for regional center services based on a diagnosis of Pervasive Developmental Disorder, Not Otherwise Specified, and mild Cerebral Palsy.²
2. Claimant has received behavior intervention services from Beautiful Minds Center for Autism, Inc. (Beautiful Minds) since 2008. In October 2011, WRC proposed to reduce Claimant's behavior intervention services from 15 hours per week to 10 hours per week, effective November 15, 2011. The stated reasons for this decision were because Claimant's current total program exceeds 40 hours per week, and 40 hours per week is appropriate to meet her needs. WRC cited Welfare and Institutions Code section 4686.2 in support of its decision. By letter dated November 29, 2011, WRC offered to extend the effective dates as follows: Claimant would receive 10 hours per week from February through May 2012. WRC intended to follow a fade-out program thereafter.
3. Claimant timely filed a fair hearing request.
4. Soryl Markowitz (Markowitz), Licensed Clinical Social Worker, and Autism and Behavior Specialist at WRC, testified at the hearing. Markowitz explained that behavior services are not intended to continue indefinitely. Rather, the goal is to fade the service out once the consumer's goals have been met, and the family has learned the techniques. The length of the transition plan is determined by individual circumstances. Markowitz stated that WRC based its decision to reduce Claimant's behavioral service hours because Beautiful Minds' progress reports show that Claimant has made a lot of progress over the years. Although there has been some fluctuation in Claimant's behavior, Claimant's overall progress has been significant. In addition, Claimant began attending school, and her total program exceeds 40 hours per week, which is above the recommended national standard. Markowitz also explained that even if WRC gradually terminates behavior services at this point in Claimant's life, she can re-start them as she enters new developmental stages, or as other changes occur. Moreover, Claimant will continue to have challenges in her life, and intervention will not completely eliminate her behaviors. Markowitz clarified that WRC is not proposing to abruptly terminate Claimant's behavior services, but to bring her weekly

² The stated diagnosis is based on WRC's Individual Program Plan dated June 1, 2010. At the hearing, Claimant's mother stated that in November 2009, Claimant received a diagnosis of "high-functioning atypical autism" from an independent provider.

hours into compliance with national standards, and thereafter determine an appropriate transition plan for Claimant.

5. Claimant's most recent Individualized Program Plan (IPP), dated June 1, 2010, notes Claimant's overall progress. Although Claimant has some social and behavioral issues, they continue to be addressed in the services provided by WRC, which include behavior intervention and a social skills program.

6. WRC submitted multiple progress reports from Beautiful Minds. The reports state that Claimant has made progress and she has met many of her goals. She continues to struggle with safety awareness, inappropriate boundaries, and compliance. The most recent progress report, dated March through August 2011, noted that Claimant was undergoing changes, such as changing schools and other transitions. That said, Beautiful Minds recommended that Claimant's hours be reduced to 45 hours per month, beginning in January 2012.

7. Claimant's mother testified at the hearing. She acknowledged that Claimant has benefitted from regional center services. She remains concerned about her daughter's behaviors, such as her stranger awareness. For example, at a Halloween party, Claimant sat in a stranger's lap. Claimant's mother is also concerned about Claimant's aggression and anxiety; e.g. Claimant argues with her siblings, and she also bites her finger and toenails. In addition, Claimant's mother is concerned because Claimant does not seem to comprehend the consequences of her behavior. A recent example is that Claimant sent a threatening e-mail to her cousin. Claimant's mother was unsure how to handle the behavior, and was grateful that the Beautiful Minds representative was present to assist her during the event. At the hearing, however, Claimant's mother thoughtfully articulated a plan to address Claimant's behavior. Although she may feel unsure during a particular incident, it is clear that Claimant's mother has a solid understanding of the behavior intervention strategies.

LEGAL CONCLUSIONS

1. Cause exists to deny Claimant's appeal of regional center's reduction of Claimant's behavioral intervention services, as set forth in factual findings 1 through 7, and legal conclusions 2 through 4.

2. The Lanterman Act, incorporated under Welfare and Institutions Code section 4500, et seq., acknowledges the state's responsibility to provide services and supports for developmentally disabled individuals. It also recognizes that services and supports should be established to meet the needs and choices of each person with developmental disabilities. (Welf. & Inst. Code, § 4501.)

3. Welfare and Institutions Code section 4686.2, which became effective on July 1, 2009, defines the regional center's authority for purchasing behavioral intervention services. It provides that a regional center must regularly evaluate, update and revise a consumer's

behavioral goals. In addition, when the stated goals are met, the regional center must stop purchasing behavioral intervention services.

4. Applying those provisions here, Claimant's appeal must be denied. The evidence showed that WRC determination to reduce behavioral intervention services from 15 hours per week to 10 hours per week is well-supported. Claimant's outstanding goals can be achieved through her current level of programming. WRC should re-evaluate Claimant's behaviors prior to any further reduction in hours, and make any necessary adjustments according to Claimant's needs at that time.

ORDER

Claimant's appeal is denied. Westside Regional Center may reduce funding of behavioral services for Claimant.

DATED: January 19, 2012

AMY C. YERKEY
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.