

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

OAH No. 2012080625

ARMANDO V.,

Claimant,

vs.

EASTERN LOS ANGELES REGIONAL
CENTER,

Service Agency.

DECISION

This matter was heard by Humberto Flores, Administrative Law Judge with the Office of Administrative Hearings, on October 1, 2012, in Los Angeles, California.

Lilia Ortega, Supervisor, represented the Eastern Los Angeles Regional Center (ELARC or regional center).

Claimant Armando V. did not appear but was represented at the hearing by his mother.

ISSUE

Did the regional center properly reduce funding for claimant's respite services from 24 hours per month to 18 hours per month?

FINDINGS

1. Claimant is a regional center consumer who had been diagnosed with Autistic Disorder. He is eight years old.
2. Claimant has been receiving 24 hours per month of respite services.

3. On July 24, 2012, claimant's service coordinator met with claimant and his mother and informed claimant's mother that, pursuant to the ELARC's purchase of service (POS) policy, claimant's respite hours would be reduced from 24 hour per month to 18 hours per month.

4. On August 2, 2012, the regional center issued a Notice of Proposed Action to reduce the level of respite care from 24 hours per month to 18 hours per month.

5. Claimant appealed the Notice of Proposed Action and requested a hearing.

6. Claimant's mother testified that claimant engages in numerous disruptive behaviors which requires claimant to be constantly supervised. In addition to his behaviors, claimant is not able to independently dress himself, brush his teeth, bathe himself, wipe after having a bowel movement, tie his shoelaces, or eat without being reminded to do so.

7. Ms. Ortega testified that the ELARC POS policy sets forth five levels for respite services. Level A provides for up to four hours per month; Level B provides for up to eight hours per month; Level C provides for up to 12 hours per month; Level D provides for up to 18 hours per month; and Level E provides for up to 24 hours per month. Ms. Ortega testified that an argument can be made that claimant's disability places him in the Level B category. However, because of the claimant's behaviors, the regional center authorized 18 hours per month, which is a Level D amount of respite. Level E is the highest level and is authorized for a consumer who is medically fragile and requires special care on an hourly basis during the day, such as suctioning and drip feedings.

8. Based on the ELARC POS guidelines, claimant does not qualify for 24 hours of respite per month.

LEGAL CONCLUSIONS

1. Welfare and Institutions Code section 4512, subdivision (b),¹ sets forth the various services and supports which may be provided to a regional center consumer. In determining which services and supports are necessary for each consumer, consideration should be given to "the needs and preferences of the consumer or, when appropriate, the consumer's family."

2. Services are to be provided in conformity with the IPP, per Code section 4646, subdivision (d). Consumer choice is to play a part in the development of the IPP.

¹ All statutory references are to the Welfare and Institutions Code unless noted otherwise.

3. The services to be provided to any consumer must be individually suited to meet the unique needs of the individual client in question, and within the bounds of the law each client's particular needs must be met. (See, e.g., Code §§ 4500.5, subd. (d), 4501, 4502, 4502.1, 4640.7, subd. (a), 4646, subds. (a) and (b), 4648, subds. (a)(1) and (a)(2).) A priority is assigned to maximizing the client's participation in the community. (Code §§ 4646.5, subd. (2); 4648, subds. (a)(1) and (a)(2).) However, services that are provided must be cost effective, and the Lanterman Act requires the regional centers to control costs so far as possible, and to otherwise conserve resources that must be shared by many consumers. (Code §§ 4512, subd. (b), 4640.7, subd. (b), 4651, subd. (a), and 4659.)

4. Section 4512, subdivision (b), of the Lanterman Act states in part:

“Services and supports for person with developmental disabilities” means specialized service and supports or special adaptations of generic services and support directed toward the alleviation of a developmental disability or toward the social, personal, physical, or economic habilitation or rehabilitation of an individual with a developmental disability, or toward the achievement and maintenance of independent, productive, normal lives. . . . Services and supports listed in the individual program plan may include, but are not limited to . . . respite care . . .”

5. The facts in this case call for a weighing and balancing between the needs and preferences of the consumer and the responsibility of the regional center to insure that services are cost effective. In this case, the regional center's determination that 18 hours of respite per month is reasonable and appropriate, and conforms to the ELARC POS guidelines.

6. Cause exists to affirm the decision of the Eastern Los Angeles Regional Center reducing funding for respite care services from 24 hours per month to 18 hours per month. This decision is based on Factual Findings 1 through 8, the testimony of all witnesses, the exhibits, and the aforementioned sections of the Welfare and Institutions Code.

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ORDER

The decision of the Eastern Los Angeles Regional Center, to reduce funding for respite care services from 24 hours per month to 18 hours per month is affirmed. Claimant's appeal is denied.

DATED: October 17, 2012



HUMBERTO FLORES
Administrative Law Judge
Office of Administrative Hearings

NOTICE

This is a 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.