

BEFORE THE  
OFFICE OF ADMINISTRATIVE HEARINGS  
STATE OF CALIFORNIA

In the Matter of:

DANIEL N.,

Claimant,

vs.

ORANGE COUNTY REGIONAL CENTER,

Service Agency.

OAH No. 2012080973

DECISION

This matter was heard by Humberto Flores, Administrative Law Judge with the Office of Administrative Hearings, on October 4, 2012, in Santa Ana, California.

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

Paula Noden, Fair Hearing Manager, represented the Orange County Regional Center (OCRC).

Evidence was received and the matter was submitted for decision. The Administrative Law Judge makes the following findings, legal conclusions and order.

ISSUE

Should OCRC continue to provide funding for claimant's in-home behavioral services despite the decision of claimant's parent not to seek funding from their health insurance company?

FACTUAL FINDINGS

1. Claimant is a five-year-old boy who qualifies for regional center services based on a diagnosis of autism.

2. Claimant has deficits and/or difficulties with self-care skills and daily living skills. He also exhibits challenging behaviors such as temper tantrums that affect social interactions with peers and family.

3. Claimant currently receives 20 hours per month of in-home behavioral services provided by ACES. These services have helped claimant improve his behavioral challenges but he continues to need these services.

4. In early summer 2012, the regional center informed claimant's parents that in-home behavioral intervention services would cease by September 30, 2012, because claimant's parent decided not to pursue funding from their health insurance company. Claimant's parents responded by stating that they did not pursue funding from their health insurance company because they are concerned that family and friends will learn of claimant's Autistic Disorder. They also do not want claimant to learn that he has Autistic Disorder. They are afraid that they would not have the same level of confidentiality if they were to pursue funding from their health insurance company.

5. On July 30, 2012, OCRC issued a Notice of Proposed Action notifying claimant that the regional center would terminate funding for in-home behavioral services by September 30, 2012. OCRC based its decision on Welfare and Institutions Code section 4659, subdivision (c), which directs regional centers not to purchase services that are available to a consumer through his health insurance. In addition, the regional center cites SB 946, which requires health plans and insurers to provide behavioral health treatments for individuals with autism and pervasive developmental disorder effective July 1, 2012. On August 15, 2012, claimant filed a request for hearing.

6. Claimant's mother testified that she and her husband do not want to request funding through their health insurance because they do not want their family, friends or even claimant to learn of claimant's autism. She is concerned that their insurance company does not have the same confidentiality constraints and protections that are afforded regional center consumers.

## LEGAL CONCLUSIONS

1. Welfare and Institutions Code section 4512, subdivision (b) of the Lanterman Developmental Disabilities Services Act states in part:

“Services and supports for person with developmental disabilities” means specialized service and supports or special adaptations of generic services and supports 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, . . . behavior modification . . . .

2. The services to be provided to any consumer must be individually suited to meet the unique needs of the individual client in question. Within the bounds of the law each client's particular needs must be met, taking into account the needs and preferences of the individual and the family. This requires an active participation by the consumer and her legal guardians. (See Welf. & Inst. Code, §§ 4646, subds. (a) & (b), and 4648, subd. (a) (2).)

3. Services provided must be cost effective (Welf. & Inst. Code § 4512(b), *supra*), 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. (*See, e.g.*, Welf. & Inst. Code, §§ 4640.7, subd. (b), 4651, subd. (a), 4659, and 4697.) To be sure, the obligations to other consumers are not controlling in the decision-making process, but a fair reading of the law is that a regional center is not required to meet a disabled child's every possible need or desire, in part because it is obligated to meet the needs of many children and families.

4. Welfare and Institutions Code section 4659, subdivision (c), provides that regional centers shall not purchase any service that would otherwise be available through a health care service plan when a consumer or family meets the criteria of this coverage but does not pursue that coverage. In addition Senate Bill 946 requires health plans and insurers to provide behavioral health treatments for individuals with autism and pervasive developmental disorder effective July 1, 2012. In this case, claimant's parents decided not to pursue funding for in-home behavior services through their insurance company. As a result, the regional center properly terminated these services.

5. Cause exists to affirm the decision of the Orange County Regional Center terminate funding for in-home behavioral services provided by ACES. This decision is based on the facts set forth in findings 1 through 6, the application of Welfare and Institutions Code sections 4512, 4646, 4648, 4659, subdivision (c), and Senate Bill 946 to the facts of this case.

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ORDER

The decision of the Orange County Regional Center terminating funding for in-home behavioral services for claimant is affirmed. Claimant's appeal is denied.

DATED: October 17, 2012

A handwritten signature in black ink that reads "Humberto Flores". The signature is written in a cursive style and is positioned above a horizontal line.

HUMBERTO FLORES  
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.