

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

CLAIMANT.

Claimant,

vs.

WESTSIDE REGIONAL CENTER,

Service Agency.

OAH Case No. 2013050311

DECISION

Chris Ruiz, Administrative Law Judge (ALJ), Office of Administrative Hearings, State of California, heard this matter at the Eastern Los Angeles Regional Center, in Culver City, on June 19, 2013.

Claimant's mother represented Claimant.¹ Claimant was also present at the hearing.

Lisa Basiri, Fair Hearing Coordinator, represented Westside Regional Center (WRC or the service agency.)

Oral and documentary evidence was received and argument made. The record was closed and the matter submitted for decision on June 19, 2013.

ISSUE

The parties stipulated that the following issue is to be decided by the ALJ:

Shall the service agency be ordered to fund Joe Blasco Hollywood Make-Up School (MS) for Claimant?

¹ Claimant and her family are referred to as "Claimant" and their family title(s) to protect their confidentiality.

FACTUAL FINDINGS

1. Claimant is a 21 year-old woman. She has been a consumer of the service agency since approximately age two by reason of her diagnosis of Pervasive Developmental Disorder/Fifth Category (requiring services similar to that of a person with mental retardation). Claimant is presently receiving 15 hours per week of “community integration services” (CIS) which is funded by WRC and which is provided by Creative Supports (CS).

2. The most recent agreed to Individual Program Plan (IPP) is dated February 25, 2013. The IPP includes funding for CIS, but not for the training program that Claimant is presently requesting. Normally, a party request a change in the IPP must request such change and follow the IPP process.

3. On April 15, 2013, WRC sent a letter to Claimant which denied Claimant’s request that WRC fund/reimburse Claimant for her tuition expense at MS. Claimant’s Fair Hearing Request was filed on May 2, 2013.

4. After graduating from high school, Claimant attended Santa Monica Community College (SMCC) for a short time. However, she found the class sizes to be too large in order for her to effectively concentrate. As such, she left SMCC and contacted the Department of Rehabilitation (DOR). DOR generally assists qualified persons in finding employment after age 18. DOR agreed to financially assist Claimant while she attends MS. However, DOR will only fund the tuition at any institution at a rate which is comparable to the tuition at a public school college. The tuition at SMCC, the public school college DOR used to determine the amount it will pay, is less than the tuition at MS. As such, Claimant is seeking to have WRC fund the difference between the tuition at MS and the amount DOR will pay.

5. The tuition at MS is approximately \$18,500 for the “Masters One Course,” which is the course in which Claimant has enrolled. However, Claimant was unable to establish the specific amount that DOR is willing to pay. Claimant did not provide any written documentation from DOR, or any other entity. Claimant’s mother testified that she is “going to call” DOR in the near future to determine what DOR is willing to pay for MS. Claimant’s mother also testified that she “doesn’t really know what DOR is willing to pay,” although she believes she needs to pay MS \$8,000 in July 2013. Without this information, Claimant did not establish what amounts are at issue. Thus, the issue is not ripe.

LEGAL CONCLUSIONS

1. The Lanterman Developmental Disabilities Act (Lanterman Act) governs this case. (Welf. and Inst. 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

² All further statutory references are to the Welfare and Institutions Code.

decision. Claimant properly and timely requested a fair hearing and therefore jurisdiction for this case was established. (Factual Findings 1-3.)

2. Where a claimant seeks to establish the propriety of a service not previously agreed to by the service agency, the burden is on that appealing claimant to demonstrate the service agency's decision is incorrect. Where the service agency seeks to discontinue a service it has previously funded, the service agency has the burden to demonstrate that its decision is correct. In this case, claimant bears the burden because the service agency has not previously funded the two services at issue. (Factual Findings 1-2.)

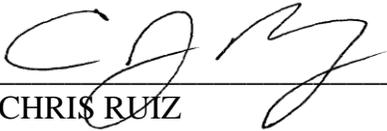
3. The service agency contended, in part, that MS is available to all people, not only disabled persons. Additionally WRC contended that Claimant must access all generic services, including student loans, DOR, and generic services. WRC also contended that MS is not a service which specifically alleviates Claimant's needs because of her disability.

4. WRC's contentions need not be decided at this time. Claimant did not provide enough information to establish how much MS will cost, including tuition, fees, materials, and other related costs. Further, Claimant did not establish what amount DOR has agreed to pay for MS. As such, Claimant did not establish what amount WRC would be ordered to pay if Claimant prevailed. The issue is not ripe.

ORDER

Claimant's appeal of the WESTSIDE REGIONAL CENTER's denial of funding/reimbursement for MS is denied.

DATED: July 1, 2013


CHRIS RUIZ
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.