

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of Claimant's Request for Door
to Door Transportation:

OAH No. 2013080817

CLAIMANT,

and

SAN DIEGO REGIONAL CENTER,

Service Agency.

DECISION

Mary Agnes Matyszewski, Administrative Law Judge, Office of Administrative Hearings, State of California, heard this matter in San Diego, California, on January 8, 2014.

Claimant's father and conservator (Father) represented claimant, who was not present at this hearing.

Ronald House, Attorney at Law, represented the San Diego Regional Center (SDRC).

The matter was submitted on January 8, 2014.

ISSUE

When claimant filed his request for fair hearing, the issue was whether SDRC should fund claimant's request for door to door transportation to his intended day program. In the interim, that day program gave notice that he was being terminated from consideration. At the time of the hearing, claimant was not attending a day program, although SDRC was working to get him enrolled in a program. Accordingly, as noted below, there was no issue before the Office of Administrative Hearings that was ripe for determination and claimant's appeal is dismissed.

FACTUAL FINDINGS

Jurisdictional Matters

1. On August 21, 2013, claimant requested a fair hearing seeking to have SDRC fund door to door transportation to and from his day program and for SDRC to fund his day program. Claimant was thereafter given notice of this hearing.

Evidence Presented At Hearing

2. Claimant is a 28-year-old male who qualified for regional center services on the basis of a diagnosis of autism, intellectual disability and intermittent explosive disorder.

3. Consumer Services Coordinator (CSC) Seth Mader testified about his involvement with claimant's request. The evidence established that SDRC submitted a Health and Safety waiver to the Department of Developmental Services (DDS) seeking to fund claimant's transportation request above the minimum level set by DDS. While that request was pending, claimant's day program gave notice of its intent to terminate him from consideration for their program. SDRC is currently actively seeking a new day program for claimant to attend and a tour of a possible facility was set for the day after this hearing. CSC Mader described claimant's unique needs, which resulted in him attending school and a day program located at the opposite end of the county.

4. Father testified that for five years claimant was transported approximately 100 miles per day to attend school and a day program in another part of the county. Thereafter claimant left the day program due to illness. Father testified that claimant tolerates long travel. Father testified that claimant has not been enrolled in any day program for the past five and one-half years and that he would like him enrolled in one. SDRC acknowledged that claimant should be attending a day program.

LEGAL CONCLUSIONS

Burden of Proof

1. In a proceeding to determine whether an individual is eligible for services, the burden of proof is on the claimant to establish that the services are necessary to meet the consumer's needs. The standard is a preponderance of the evidence. (Evid. Code, § 115.)

Statutory Authority

2. The Lanterman Act is set forth at Welfare and Institutions Code section 4500 et seq.

3. Welfare and Institutions Code section 4501 outlines the State's responsibility for persons with developmental disabilities and the state's duty to establish services for those individuals.

4. Welfare and Institutions Code section 4512, subdivision (b) defines "services and supports."

Evaluation

5. The Lanterman Act and the applicable regulations set forth criteria that a claimant must meet in order to qualify for regional center services. One seeking services has the burden of demonstrating the need for the requested service and support. At the time of this hearing claimant was not enrolled in a day program. Thus, the issue of his request for door to door transportation to his day program is not ripe for determination.

Additionally, the evidence did not establish that SDRC refused to fund a day program for claimant. That issue is not ripe, either.

ORDER

Claimant's appeal that San Diego Regional Center's fund door to door transportation to his day program is denied. Claimant's request that SDRC fund his day program is also denied. Claimant's appeal is dismissed.

DATED: January 23, 2014

MARY AGNES MATYSZEWSKI
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 ninety days.