

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

OAH No. 2013120682

CLAIMANT,

vs.

REGIONAL CENTER OF THE EAST
BAY,

Service Agency.

DECISION

Administrative Law Judge Jill Schlichtmann, State of California, Office of Administrative Hearings, heard this matter on February 3, 2014, in Concord, California.

Mary Dugan, Fair Hearing Specialist, represented Regional Center of the East Bay, the service agency.

Claimant was represented by his mother.

The matter was submitted for decision on February 3, 2014.

ISSUE PRESENTED

Did RCEB violate the terms of the mediation agreement?

FACTUAL FINDINGS

1. Claimant is a 19-year-old consumer of Regional Center of the East Bay (RCEB) services. Claimant has been diagnosed with severe autism and has frequent seizures. Claimant is currently residing in an out-of-home placement.

Mediation Agreement

2. On August 2, 2013, claimant's mother and an RCEB representative signed a final mediation agreement to resolve a dispute concerning RCEB's obligation to reimburse claimant retroactively for the cost of respite and childcare services.

3. Pursuant to the final mediation agreement, RCEB agreed to fund respite and childcare services from July 1, 2011, through July 31, 2013, upon claimant's mother providing documentation of employment, documentation of care that was provided, and proof of payment to the provider. The agreement stated further that in the event that RCEB needed additional documentation, RCEB would immediately notify claimant's mother of the documents needed and claimant's mother would promptly provide the additional documents to RCEB. With regard to respite and childcare from February 1, 2011, to June 30, 2011, the parties agreed to work to resolve their disagreement by September 2, 2013. If they were unable to resolve the issue, claimant's mother could request a fair hearing.

Follow-Up to Mediation Agreement

4. The first communication RCEB received from claimant's mother after the mediation was an email message sent on December 9, 2013. Claimant's mother requested reimbursement, claiming that she had sent documentation over five weeks earlier. RCEB confirmed that it had not yet received any documentation and so advised claimant's mother.

5. On December 17, 2013, RCEB received documentation in support of the request for reimbursement. The documentation, sent by facsimile transmission, was comprised of a document typed by claimant's mother and copies of checks made out to the provider of childcare and respite services. The documentation requested reimbursement for childcare and respite services from April 2011 through September 2013.

The typed document identified the total number of hours for which claimant's mother was requesting reimbursement for respite and childcare services each month. Claimant's mother reported her employment by stating her full-time and part-time hours per month.

6. RCEB representatives reviewed the packet of information sent by claimant's mother. In order to make a retroactive reimbursement, the regional center requires proof of employment, which is generally a letter from the human resources department of the employer, confirming employment and verifying the hours worked. Here, claimant's mother did not provide any documentation from her employers; rather, she simply stated her weekly schedule for each month.

7. In order to document services provided, RCEB normally receives logs signed by the service provider each day that care was provided. In this matter, RCEB did not receive any documentation from care providers; moreover, the information received from claimant's mother was summary in nature and RCEB was unable to verify that services were provided on any given day.

8. In order to document payment to the care provider, RCEB generally requires certified copies of checks made out to the service providers. In this matter, claimant's mother provided copies of checks. The RCEB Director of Finance and Administration reviewed the check copies carefully; she regularly examines checks in her work. She observed that the checks appeared to have been altered; the name of the payee appeared lighter than the balance of the writing on the checks, and parts of the line under which the payee was written were interrupted, as if "white out" had been used before the name was written on the check. In addition, the amounts of the checks did not reconcile with the reimbursement requests. Finally, the bank code numbers on the checks were different although they were all made out to the same payee which was unusual. For these reasons, RCEB requires certified copies of the checks from a banking institution prior to funding any reimbursement.

9. RCEB representatives met with claimant's mother to discuss the matter informally on December 27, 2013. Following the meeting, RCEB wrote a letter to claimant's mother dated December 30, 2013. In the letter, an RCEB representative advised claimant's mother that the documentation submitted was insufficient. The letter explained that in order to receive reimbursement pursuant to the mediation agreement, the following items were supposed to have been received by September 2, 2013: 1) claimant's mother's employment verification; 2) proof of payment to the provider of the services; and, 3) documentation that the care was provided.

10. Claimant's mother did not submit the required documentation at the informal meeting on December 27, 2013, following the meeting, or at the hearing of this matter.

Testimony by Claimant's Mother

11. Claimant's mother has three other children, attends school and works as a nurse. She is very busy and it was difficult for her to pull together the information requested by RCEB to support her claim for reimbursement. Claimant's mother did not bring any documents to the hearing because she thought the only objection to her documentation was that it was received after September 2, 2013.

12. Claimant's mother raised various other reasons for not having provided the documentation required, none of which was persuasive or supported by other evidence.

LEGAL CONCLUSIONS

1. The State of California accepts responsibility for persons with developmental disabilities under the Lanterman Developmental Disabilities Services Act. (Welf. & Inst. Code, § 4500, et seq.¹) The Lanterman Act mandates that an "array of services and supports

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

should be established . . . to meet the needs and choices of each person with developmental disabilities . . . and to support their integration into the mainstream life of the community.” (§ 4501.) Regional centers are charged with the responsibility of carrying out the state’s responsibilities to the developmentally disabled under the Lanterman Act. (§ 4620, subd. (a).) An administrative “fair hearing” to determine the rights and obligations of the parties is available under the Lanterman Act. (§§ 4700 – 4716.)

2. This matter concerns whether RCEB violated the terms of the final mediation agreement. The obligations of the parties are determined by examining the written mediation agreement itself. Pursuant to that final mediation agreement, RCEB was not obligated to reimburse claimant’s mother unless she provided verifiable proof of employment, proof of payment to the care provider and proof that the care was provided. That documentation was to have been submitted to RCEB by September 2, 2013. It is undisputed that claimant’s mother did not submit any documentation by September 2, 2013.

Moreover, the documentation that was submitted on December 17, 2013, was summary in nature and was not verifiable by RCEB. The amount of the reimbursement requests did not reconcile with the check copies, and the check copies appeared to have been altered. No certified copies of the checks were submitted. No logs detailing the times and dates care was provided were submitted. The caregiver did not verify providing the care or receiving the funds. Finally, claimant’s mother did not provide verification of employment from her employers. Therefore, claimant’s mother did not provide the documentation necessary within the time period agreed upon, which would have obligated RCEB to reimburse her for the claimed childcare and respite services. RCEB has not violated the mediation agreement, and therefore, the appeal must be denied.

ORDER

Claimant’s appeal is denied.

DATED: 2/11/14

_____/s/_____
JILL SCHLICHTMANN
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.