

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

Claimant,

vs.

NORTH BAY REGIONAL CENTER,

Service Agency.

OAH No. 2014010772

DECISION

Administrative Law Judge Dianna L. Albin, Office of Administrative Hearings, State of California, heard this matter in Napa, California, on February 18, 2014.

Jack Bengel, was present and represented North Bay Regional Center.

Claimant and claimant's representative were not present at the hearing and were not otherwise represented.

ISSUE

Is claimant eligible to receive regional center services?

FACTUAL FINDINGS

1. On January 16, 2014, claimant requested a fair hearing. Claimant was thereafter given notice of this hearing. Despite being properly served with all relevant documents, pleadings and notices, claimant and claimant's representative failed to appear at the hearing. The matter proceeded via default.

2. North Bay Regional Center's position is that claimant is not eligible for services because claimant is not substantially disabled by cerebral palsy, epilepsy, autism, an intellectual disability, or a condition closely related to an intellectual disability or requiring treatment similar to that required by persons with an intellectual disability, pursuant to

Welfare and Institutions Code section 4512, subdivision (a), and California Code of Regulations, title 17, section 54000 through 54010.¹

3. Claimant failed to introduce evidence to establish that claimant is substantially disabled by cerebral palsy, epilepsy, autism, an intellectual disability, or a condition closely related to an intellectual disability or requiring treatment similar to that required by persons with an intellectual disability. Consequently, claimant does not qualify for regional center services.

LEGAL CONCLUSIONS

Burden and Standard of Proof

1. “Burden of proof” means the obligation of a party to establish by evidence a requisite degree of belief concerning a fact in the mind of the trier of fact or the court; except as otherwise provided by law, the burden of proof requires proof by a preponderance of the evidence. (Evid. Code, § 115.)

The Lanterman Act

2. The Legislature enacted a comprehensive statutory scheme known as the Lanterman Developmental Disabilities Services Act to provide a pattern of facilities and services sufficiently complete to meet the needs of each person with developmental disabilities, regardless of age or degree of handicap, and at each stage of life. The purpose of the statutory scheme is twofold: To prevent or minimize the institutionalization of developmentally disabled persons and their dislocation from family and community, and to enable them to approximate the pattern of everyday living of nondisabled persons of the same age and to lead more independent and productive lives in the community. (*Association for Retarded Citizens v. Department of Developmental Services* (1985) 38 Cal.3d 384, 388.)

3. Claimant failed to meet the burden of proof by establishing claimant is substantially disabled by cerebral palsy, epilepsy, autism, an intellectual disability, or a condition closely related to an intellectual disability or requiring treatment similar to that required by persons with an intellectual disability. By reason of the matters set forth in Findings 2 and 3, pursuant to Welfare and Institutions Code section 4512, subdivision (a), and California Code of Regulations, title 17, section 54000 through 54010, claimant is not entitled to receive regional center services.

¹ The Lanterman Developmental Disabilities Services Act authorizes specified services for individuals defined as “developmentally disabled.”

ORDER

The request of claimant to receive services from North Bay Regional Center is denied.

DATED: February 20, 2014

_____/s/_____
DIANNA L. ALBINI
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 ninety days.