

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

CLAIMANT,

v.

KERN REGIONAL CENTER,

Service Agency.

OAH Case No. 2014020310

DECISION

This matter came on regularly for hearing before Glynda B. Gomez, Administrative Law Judge, Office of Administrative Hearings, on April 23, 2014, in Tehachapi, California.

Claimant's mother¹ represented Claimant.

Cherylle Mallinson, Director of Community Services, represented Kern Regional Center (Regional Center or Service Agency).

Oral and documentary evidence was received at the hearing. The record was left open until April 25, 2014, for Claimant to submit a medical report. The report was received, marked and admitted as Exhibit 24.

The matter was submitted for decision on April 25, 2014.

ISSUES

Should Regional Center reimburse Claimant for mileage for medically related appointments.

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¹ Names are not being used for Claimant or her mother to protect Claimant's privacy.

FACTUAL FINDINGS

1. Claimant is a 12 year old girl eligible for regional center services by reason of Autism and Moderate Mental Retardation.²

2. Claimant lives with her mother. Claimant's mother is a single parent and has limited financial resources. Additionally, her automobile is old and needs repairs.

3. In May of 2013, Claimant's mother requested that Regional Center provide funding for transportation expenses for medical appointments. Specifically, Claimant requested funding for transportation expenses associated with treatment by neurologist Jason Lerner on June 1, 2014, January 2, 2014, and March 20, 2014; Psychiatrist Shafali Jeste on November 21, 2013, January 23, 2014, March 20, 2014, and April 10, 2014; preparation of a Video EEG and MRI on December 2, 2013, December 3, 2013, and January 22, 2014; and fitting of a helmet at O and P in Motion on November 11, 2013, and December 3, 2013.³ Some of the appointments are more than 70 miles for Claimant's home and are a significant hardship for her family.

4. a. The parties have been at odds since early 2013 regarding the content of Claimant's Individual Program Plan (IPP). The latest plan on which there was some agreement, and thus currently in effect, was derived following a meeting on February 11, 2013. The IPP written by Service Agency contains objectives for Claimant to continue to live with her family, to maintain an optimal level of health, to receive an appropriate education, to become more independent and self-sufficient, and to participate in community outings. Claimant's mother disagreed with significant portions of the language Service Agency personnel wrote in the IPP, and suggested extensive additions, including additional outcomes. She signed the IPP on October 25, 2015, subject to inclusion of her "Addendum," which contained the suggested additions. There does not appear to be disagreement regarding the services Service Agency is actually providing or that Service Agency agreed to provide transportation reimbursement for medical appointments related to Claimant's disabilities. Accordingly, further references are to the IPP drafted by Service Agency, with references to the language proposed by Claimant's mother if necessary. The parties are now working on a new IPP.

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² Claimant's mother asserts that Claimant is also eligible for services under diagnoses of cerebral palsy and epilepsy. Although, there is evidence of seizures and she is being followed by a neurologist, Service Agency has not yet made a determination about eligibility or about the need for further assessment based on these conditions.

³ At hearing, Claimant withdrew a request for funding of transportation to see a local dentist.

b. With respect to the health outcome, the IPP states that Claimant is prescribed Carbotrol for the control of seizures. The document states that Medi-Cal will be the primary source of funding, and that Service Agency will seek funding for mileage reimbursement and certain insurance copayments.

5. At hearing, KRC represented that as of April 17, 2014, it agreed to fund reimbursement of mileage at a rate of 34 cents per mile for the appointments set forth in factual finding 3 above. However, KRC required Respondent to complete a form entitled “KRC Invoice for Transportation-Family Member” (Exhibit K) which instructs Mother to provide the date of each trip, odometer readings at beginning and end of each trip, total miles, destination, and driver’s signature together with copies of receipts for each trip. Additionally, KRC required Claimant’s mother to provide copies of her car insurance and driver’s license. Claimant’s mother provided the car insurance (Exhibit 21) and driver’s license (Exhibit 22) to KRC on April 16, 2014, and has provided documentation of each of the trips for medical treatment (Exhibits 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, and 16). Claimant’s mother is able to calculate the mileage for each trip, but is not able to recreate the odometer readings on the automobile after the fact and she did not keep notes of the odometer readings.

6. At hearing, KRC agreed to accept Claimant’s mileage reimbursement forms without odometer readings included.

7. Claimant’s mother agreed that 34 cents per mile was an appropriate mileage reimbursement rate.

LEGAL CONCLUSIONS

1. In enacting the Lanterman Developmental Disabilities Services Act (Lanterman Act)⁴, the Legislature accepted its responsibility to provide for the needs of developmentally disabled individuals, and recognized that services and supports should be established to meet the needs and choices of each person with developmental disabilities. (Welf. & Inst. Code, § 4501.)

2. The Lanterman Act gives regional centers, such as Service Agency, a critical role in the coordination and delivery of services and supports for persons with disabilities. (Welf. & Inst. Code, § 4620 et seq.) Thus, regional centers are responsible for developing and implementing IPPs, for taking into account consumer needs and preferences, and for ensuring service cost-effectiveness. (Welf. & Inst. Code, §§ 4646, 4646.5, 4647 & 4648.)

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⁴ Welfare and Institutions Code section 4500 et seq.

3. Welfare and Institutions Code section 4512, subdivision (b), defines the services and supports that may be funded, and sets forth the process through which they are identified, namely, the IPP process, a collaborative process involving consumers and service agency representatives. The statute defines services and supports for persons with developmental disabilities as “specialized services 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.”

4. Welfare and Institutions Code section 4646.4, subdivision (a), requires Service Agency to establish an internal process to systematically review the services and supports consumers receive to ensure that generic services and supports are used whenever appropriate.

5. The evidence clearly establishes that Claimant’s IPP provides for mileage reimbursement for transportation to medical appointments. In order to obtain the reimbursement, Claimant’s parent must complete a “KRC Invoice for Transportation-Family Member) (Exhibit K) with the required information and supporting documentation. In this instance, Claimant’s mother has provided all of the required information except a complete signed “KRC Invoice for Transportation-Family Member” (Exhibit K).

6. Accordingly, Service Agency shall reimburse Claimant for mileage at the rate of 34 cents per mile within 15 business days of receipt of Claimant’s completed and signed “KRC Invoice for Transportation-Family Member.” Claimant is not required to complete the columns for “Starting Mileage” and “Ending Mileage” on this claim submission. Furthermore, for this claim only, Claimant has already submitted supporting documentation for the appointments listed in factual finding 3 and need not be resubmitted with the “KRC Invoice for Transportation-Family Member” by reasons of factual findings numbers 1 through 7 and legal conclusions 1 through 5.

ORDER

1. Service Agency shall reimburse Claimant for mileage at the rate of 34 cents per mile for round trip transportation for treatment by neurologist Jason Lerner on June 1, 2014, January 2, 2014, and March 20, 2014; Psychiatrist Shafali Jeste on November 21, 2013, January 23, 2014, March 20, 2014, and April 10, 2014; preparation of a Video EEG and MRI on December 2, 2013, December 3, 2013, and January 22, 2014; and fitting of a helmet at O and P in Motion on November 11, 2013, and December 3, 2013.

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2. Claimant shall complete and sign a KRC Invoice for Transportation-Family Member. Claimant shall provide the dates of each trip, the total miles, destination and her signature for each trip. Claimant is not required to provide any further supporting documentation for the trips nor the starting or ending mileage on this submission.

3. Service Agency shall reimburse Claimant for the mileage within 15 business days of receiving Claimant's KRC Invoice for Transportation –Family Member as specified in this order.

Dated: May 5, 2014

Glynda B. Gomez
Administrative Law Judge
Office of Administrative Hearings

NOTICE

This is the final administrative decision in this matter and both parties are bound by this Decision. Either party may appeal this Decision to a court of competent jurisdiction within 90 days.