

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

CLAIMANT,

vs.

GOLDEN GATE REGIONAL CENTER,

Service Agency.

OAH No. 2015120639

DECISION

Administrative Law Judge Kirk E. Miller, Office of Administrative Hearings, State of California, heard this matter on January 6, 2016, in San Mateo, California.

Lisa Rosene, L.C.S.W., Chief, Regional Center Services, represented Golden Gate Regional Center (GGRC), the service agency.

Claimant was represented by her mother.

The record was left open until January 15, 2016, to permit claimant to file a closing statement. The statement was timely received, marked for identification as Exhibit E, and made part of the record.

The matter was submitted for decision on January 15, 2016.

ISSUES

(1) Has GGRC undertaken in good faith to implement the Orders contained in Administrative Law Judge Perry O. Johnson's Decision and Order dated October 19, 2015? If not, should sanctions be ordered?

(2) Should GGRC be ordered to pay for services claimant request that are provided by various vendors?

(3) Should GGRC be ordered to pay for mileage for transportation to and from claimant's volunteer and education sites?

FACTUAL FINDINGS

1. Claimant is a 22-year old female and a consumer who qualifies for services from GGRC based on her diagnosis of autism.

2. The Fair Hearing Request was filed on December 10, 2015, and stems in part from a prior hearing before Administrative Law Judge O. Perry Johnson, in a matter entitled *In the matter of the Request for Fair Hearing of Claimant v. Golden Gate Regional Center*, OAH No. 2015080604, (Decision and Orders). The first five issues contained in the current Fair Hearing Request seek enforcement of orders contained in the Decision and Orders. Two other issues raised in the Fair Hearing Request are not covered by the Decision and Orders.

3. Lisa Rosene, Chief, Regional Center Services, Loren Spiekerman, social worker, and Jayashree Nathaniel, Manager, Regional Center Services, testified on behalf of GGRC. Each was knowledgeable about the services that have been provided to consumer and their testimony was credible.

4. No witness testified on claimant's behalf. Claimant has the burden of proof by a preponderance of the evidence.

The Decision and Orders

The Fair Hearing Request asserts GGRC has failed to provide services in accordance with the Decision and Order and seeks enforcement of various Orders. The Fair Hearing Request describes each of the issues as set forth below:

5. Issue No. 1

Whether GGRC failed to comply with [the] OAH order stating:

With all deliberate speed, Golden Gate Regional Center is to furnish claimant, parents and conservator with information regarding crisis intervention, mobile crisis intervention (immediate 24-hour emergency services), crisis intervention facility services (temporary 24-hour residential services), along with instructions of the funding by service agency of such crisis intervention services.

To this day, claimant and her parents have not received . . . the above mentioned information.

6. On December 4, 2015, claimant's mother was invited to participate in a team meeting to discuss the matters raised in Issue 1. On December 14, 2015, claimant's mother received a detailed message from GGRC providing the information ordered by Judge Johnson with respect to this issue. Crisis intervention services are provided through a GGRC vendor. Claimant has been advised how the service works and that the vendor is paid directly by GGRC. No other information needs to be provided to comply with this Order.

7. GGRC has complied with the Order with respect to Issue No. 1.

8. Issue No. 2.

Whether GGRC (Golden Gate Regional Center) failed to comply with [the] OAH order stating:

The Golden Gate Regional Center shall forthwith provide funding for Supported Employment services and supports for claimant and a suitable placement in a sheltered workshop, basic adult education program, or adequate daycare program, which is easily assessable by claimant through feasible transportation facilities.

To this day, and GGRC has not provided. . . [these services].

9. Beginning in October 2015, GGRC contacted the Department of Rehabilitation (DOR) on consumer's behalf to request assistance with job training and placement. On December 3, 2015, GGRC was advised by DOR, that claimant's mother had advised DOR that claimant was not ready for part-time or full-time work because of her short attention span. Claimant's mother felt that at most she could do volunteer work for three hours a day. Based on this information, DOR closed claimant's file.

10. GGRC has made referrals to other local agencies where it felt consumer could volunteer or learn new skills. None of these were acceptable to claimant's mother. GGRC then offered to develop a specialized day program for consumer, and is still willing to do so.

11. GGRC has complied with the Order with respect to Issue No. 2.

12. Issue No. 3.

Whether GGRC (Golden Gate Regional Center) has failed to comply with the OAH order stating:

Claimant's appeal as framed by issue No. 17, is granted. The order pertaining to the resolution of issue No. 19 is adopted as to the disposition of this issue.

[C]laimant and her parents have not received. . . Any instruction regarding the implementation of this order.

13. Issue No. 19 in the Order required GGRC to schedule an Individual Person Plan (IPP) with consumer and with her mother. GGRC scheduled a phone call with consumer's mother for this purpose on December 14, 2015, during which time issues regarding consumer's various day programs, transportation needs, and crisis intervention were discussed.

14. The December 14, 2015, telephone meeting fulfilled GGRC's obligation as set forth in the Order. However, claimant is always entitled to meet with GGRC to discuss her IPP, and if she requests to do so, GGRC will schedule an in person IPP meeting.

15. Issue No. 4.

Whether GGRC (Golden Gate Regional Center) failed to comply with the OAH order stating:

[W]ith all deliberate speed, GGRC is to schedule an IPP meeting so as to address, discuss, include topics and concerns raised by claimant's mother's contentions established at the hearing of this matter.

[C]laimant and her parents have not received any instruction regarding implementation of this order.

16. As set forth in Findings 13 and 14, GGRC has complied with its obligations with respect to Issue No. 4.

17. Issue No. 5.

Whether GGRC (Golden Gate Regional Center) is in contempt of order by Administrative Law Judge Perry O. Johnson, Office of Administrative Hearings, State of California (OAH), rendered on October 19, 2015 (OAH No. 2015080604).

[With respect to Issues No. 1, 2 and 4.]

18. For the reasons set forth in Findings 6-7, 9-11, 13-14, and 16, GGRC is not in contempt of the Order.

19. Issue No. 6.

Whether OAH should issue an order providing the following relief: requiring GGRC to pay costs and fees in connection with the order, for:

Basic adult education
Academic Trainers

Supported employment
Little House of the Peninsula
Meals on Wheels

City of Menlo Park

20. The Decision and Order makes no finding with respect to GGRC's obligation to provide funding to claimant for services from the entities listed in Issue No. 6. Since the date of the Decision and Order, claimant has apparently not requested GGRC to fund services provided by these entities. GGRC has not issued a Notice of Proposed Action (NOPA) to consumer denying these services.

21. Claimant's request is premature and is therefore denied.

22. Issue No. 7.

Whether OAH should issue an order providing the following relief: requiring GGRC to fund mileage for transportation to and from claimant's volunteer and education sites, which are important for her paid employment prospects.

23. Claimant has not previously requested GGRC to reimburse her for the cost of travel to and from volunteer programs or education locations. GGRC has not issued a NOPA denying this request. Claimant's request is premature and is therefore denied.

LEGAL CONCLUSIONS

1. The State of California accepts responsibility for persons with developmental disabilities under the Lanterman Developmental Disabilities Services Act (Act). (Welf. & Inst. Code, § 4500, et seq.) The purpose of the Act is to rectify the problem of inadequate treatment and services for the developmentally disabled, and to enable developmentally disabled individuals to lead independent and productive lives in the least restrictive setting possible. (Welf. & Inst. Code, §§ 4501, 4502; *Association for Retarded Citizens v. Department of Developmental Services* (1985) 38 Cal.3d 384.)

2. No evidence was presented at the hearing to support any of claimant's contentions that GGRC has violated either the Act or any provision of the Decision and Order.

ORDER

Claimant's appeal is denied.

DATED: January 22, 2015



KIRK E. MILLER
Administrative Law Judge
Office of Administrative Hearings

NOTICE

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