

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

Claimant,

vs.

REDWOOD COAST REGIONAL CENTER,

Service Agency.

OAH No. 2013120669

DECISION

Administrative Law Judge Dianna L. Albini, Office of Administrative Hearings, State of California, heard this matter in Eureka, California, on January 23, 2014.

Kim Nash, Director of Clinical and Community Services, was present and represented Redwood Coast Regional Center.

Claimant's parents were present at hearing and represented claimant with the assistance of a certified Spanish interpreter.

ISSUE

Is claimant eligible to receive extended Intensive Behavioral Services from Redwood Coast Regional Center?

FACTUAL FINDINGS

1. On December 12, 2013, Redwood Coast Regional Center filed a Notice of Proposed Action declining claimant's request to extend funding for behavioral services. On December 18, 2013, claimant filed a Fair Hearing Request seeking to continue claimant's intensive behavioral services from Redwood Coast Regional Center.

2. Redwood Coast Regional Center's position is that claimant is not eligible for extended intensive behavioral Services based on claimant's progress towards programming goals and his use of the intensive behavioral skills in appropriate situations demonstrates that

claimant no longer meets the criteria for behavioral consultation services, pursuant to Welfare and Institutions Code section 4686.2, subdivision (b)(4), and California Code of Regulations, title 17, section 54000.¹

3. Claimant is a 10-year-old child with a diagnosis of autism spectrum disorder. Claimant's parents contend that claimant would benefit from further intensive behavioral services because claimant continues to demonstrate aggressive and verbal protest behavior. Currently, claimant engages in aggressive behavior toward his younger sibling approximately two-times a week at home and engages in verbal protests at home primarily with claimant's mother.

4. There is no dispute that when the intensive behavioral services commenced in approximately 2007, the services were appropriate. The evidence established that claimant has received intensive behavioral services from approximately 2007 through the present. During the time claimant received intensive behavioral services and most recently, claimant demonstrated an understanding and achievement of the intensive behavioral service goals set forth in the individual program plan. While claimant does not always choose to use the skills learned during the intensive behavioral services when demonstrating aggressive behavior, this is the result of age appropriate behavior for a 10 year-old.

LEGAL CONCLUSIONS

1. Pursuant to Welfare and Institutions Code section 4686.2, subdivision (b), effective July 1, 2009, regional centers shall:

(1)Only purchase [Applied Behavioral Analysis] (ABA) services or intensive behavioral intervention services that reflect evidence-based practices, promote positive social behaviors, and ameliorate behaviors that interfere with learning and social interactions.

(2)Only purchase ABA or intensive behavioral intervention services when the parent or parents of minor consumers receiving services participate in the intervention plan for the consumers, given the critical nature of parent participation to the success of the intervention plan.

(3)Not purchase either ABA or intensive behavioral intervention services for purposes of providing respite, day care, or school services.

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

(4) Discontinue purchasing ABA or intensive behavioral intervention services for a consumer when the consumer's treatment goals and objectives, as described under subdivision (a), are achieved. ABA or intensive behavioral intervention services shall not be discontinued until the goals and objectives are reviewed and updated as required in paragraph (5) and shall be discontinued only if those updated treatment goals and objectives do not require ABA or intensive behavioral intervention services.

2. Claimant's individual program plan demonstrates that claimant has consistently achieved the treatment goals and objectives. Consequently, pursuant to Welfare and Institutions Code section 4686.2, subdivision (b)(4), Redwood Coast Regional Center shall discontinue the purchase of claimant's intensive behavioral services.

ORDER

The request of claimant to receive further intensive behavioral services from Redwood Coast Regional Center is denied.

DATED: January 31, 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.