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State Administrative Hearing

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Wed, Jan 3, 2024 at 9:46 AM

Happy New Year, Yolanda!

As you know, Kaleb's hearing with the ALJ is next week on 1/10/2024. I wanted to ask you one last time to reconsider the County's denial of Protective Supervision for Kaleb based on additional and reinforcing evidence that we have now obtained regarding Kaleb's mental impairment and how it impacts his safety.

While we sought services for Kaleb through IHSS, we concurrently sought Regional Center services for him through the Alta California Regional Center (ACRC). ACRC finally determined last week that "Kaleb was determined eligible for Regional Center services under the qualifying areas of autism and a condition similar to intellectual disability or requiring treatment similar to that required by individuals with intellectual disability on 12/27/2023." More specifically, Dr. Morgen Aita, an independent psychologist who contracts with ACRC to provide psychological evaluations, diagnosed Kaleb with the following DSM-5TR Diagnoses:

- F84.0 Autism Spectrum Disorder (L3, L2) with Accompanying Language and Intellectual Impairment
- F80.2 Language Disorder
- F88 Global Developmental Delay

In addition to the County's view of Kaleb's developmental/congenital blindness as a medical condition, rendering him ineligible for Protective Supervision, I understand that the County was also concerned about our position of Kaleb's "Autistic behaviors" and that he had "... no official diagnosis of mental impairment." Again, based on Dr. Aita's thorough psychological evaluation, Kaleb is now officially diagnosed with Autism Spectrum Disorder (ASD) in the Level 2 range for repetitive patterns of behavior and the Level 3 range for social communication impairment with Language Disorder and Global Developmental Delay. Dr. Aita's findings reinforced and confirmed the findings of the Elk Grove Unified School District (EGUSD) and Kaleb's medical professionals, especially the findings of his pediatrician, Dr. Stephanie Yee-Guardino, who specifically said that compared to other children of Kaleb's age, Kaleb's deficits are in the severe range for all three areas of memory, orientation, and judgment.

Furthermore, as recorded in a Teacher Questionnaire dated November 28, 2023, Kaleb's teacher, Mr. Jim Thao, stated that while Kaleb had some strengths, "He will often repeat a word or phrase that is being taught or just hearing from another person. A form of echolalia. *As a result, some learning occurs, but Kaleb does not always understand what a word or phrase means* for communication in a functional manner." Kaleb "Does not seek interaction with peers Communicates very little with his peers. May say a peer's names, but not in a way to gain their attention to communicate with." Kaleb "Closes ears for some musical sounds. Intense interest in some objects (pepperoni from board game). Often hold and put objects in mouth Kaleb often hold small items that have bumps in his hands for comfort and not to interact w/ other students...."

It is my understanding, based on ACL 17-102, that you, as the County's hearing representative, "... are given the authority to make determinations on behalf of the county about whether or not a case should proceed to hearing and how to resolve the case throughout the hearing process." Furthermore, the County Welfare Department "... shall not require the county hearing representative to seek prior approval before entering into an agreement with a claimant to resolve any aspect of the issues for hearing." As I understand it, you have the authority to say "Yes" to Protective Supervision for Kaleb even now.

With the overwhelming evidence that we've provided as Kaleb's parents and the findings from third parties, such as Kaleb's medical professionals, the EGUSD, and Dr. Aita's psychological evaluation, Kaleb has met all of the criteria for Protective Supervision as we've maintained all along. Per ACL 15-25, because Kaleb is a minor, Kaleb has to meet these four criteria to be eligible for Protective Supervision:

1. Is Kaleb's "nonself-directing due to the mental impairment/mental illness?" – The answer is YES.
2. Despite his nonself-directing due to mental impairment, is Kaleb still "likely to engage in potentially dangerous activities?" – The answer is YES

3. Does Kaleb “also need more supervision than a minor of comparable age who is not mentally impaired/mentally ill pursuant to the Garrett v. Anderson court order?” – The answer is YES.
4. “When it is found that “more supervision” is needed, is 24 hour-a-day supervision needed in order for the minor [Kaleb] to remain at home safely pursuant to MPP § 30- 757.173?” – The answer is YES.

I’ve previously provided the details of how Kaleb has met these four criteria in a 9-page document titled “Additional Clarifications on Why Kaleb Xiong Should Be Approved For Protective Supervision,” dated November 13, 2023.

I remember you explaining that your role is to resolve the matter at the lowest possible level. Indeed, based on ACL 17-102, “The county hearing representative shall resolve any disagreements or misunderstandings at the lowest possible administrative level to avoid unnecessary hearings, and by regulation, is granted the authority to settle cases on behalf of the county (see also MPP, §22-073.231(a)).” From the communications that I have had with you and Norman Choy, we agreed that Kaleb’s case is quite unique when compared to the average case due to his congenital blindness and suspected developmental delays. That was before we had confirmation that Kaleb was officially diagnosed. Now that we know Kaleb is officially mentally impaired with ASD, Language Disorder, and Global Developmental Delay on top of the blindness, when taking all of the evidence together, Kaleb has met all the criteria for Protective Supervision.

Again, I ask you to reconsider the denial and grant Kaleb Protective Supervision, and I have attached the documents I referenced in this email for your review. I look forward to hearing from you soon.

Sincerely,

Yang Xiong

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4 attachments



Kaleb Eligible for ACRC Services - official letter.pdf

184K



Xiong, Kaleb- Psychological Evaluation 12.13.2023.pdf

265K



11.28.2023 - Kaleb Xiong's Teacher Questionnaire - Jim Thao - Final.pdf

1529K



Additional Clarifications on Why Kaleb Xiong Should Be Approved For Protective Supervision.pdf

343K