

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

CLAIMANT,

v.

EASTERN LOS ANGELES REGIONAL
CENTER,

Service Agency.

OAH No. 2015070568

DECISION

Carla L. Garrett, Administrative Law Judge (ALJ), Office of Administrative Hearings, State of California, heard this matter on November 9, 2015, in Alhambra, California.

Judy Perez, Fair Hearing Coordinator, represented the Eastern Los Angeles Regional Center (ELARC or Service Agency). Claimant¹ was represented by Diego Ramiro, his authorized representative.

Oral and documentary evidence was received, the record was closed, and the matter was submitted for decision on November 9, 2015.

ISSUE

Must the Service Agency continue to pay State Supplemental Payment (SSP) to Claimant in the amount of \$61.20 per month?

¹ Party title is used in lieu of Claimant's name in order to protect Claimant's privacy.

FINDINGS OF FACT

1. Claimant is a 47-year-old man, and a consumer of the Service Agency. Specifically, Claimant has been diagnosed with Rubenstein Taybi Syndrome, borderline mental retardation, and anxiety, and is eligible for services pursuant to the Lanterman Developmental Disabilities Act (Lanterman Act), California Welfare and Institutions Code, section 4500, et seq.²

2. The Service Agency issued a Notice of Proposed Action (NOPA) on June 15, 2015, providing Claimant with 30 days' notice that it would no longer pay Claimant \$61.20 in SSPs. The Service Agency claimed to have been making SSPs to Claimant in error. Specifically, the Service Agency noted that in order to be eligible for SSP, Claimant must have been receiving Supplemental Security Income (SSI), as well as residing in an independent living arrangement. While Claimant satisfied the independent living requirement, he had not been receiving SSI. On June 23, 2015, Claimant filed a Fair Hearing Request. All jurisdictional requirements have been met.

3. Claimant resides in HUD subsidized housing in the City of Whittier, and receives specific living services from Personalized Assisted Living Services (PALS). Claimant receives Social Security Administration (SSA) payments, and for a number of years, has been receiving SSPs from the Service Agency. Claimant does not receive SSI.

4. Recently, the Service Agency discovered it had been erroneously making SSPs to a number of its clients, including Claimant. Specifically, it had been making SSPs to Claimant under the mistaken belief that Claimant had been receiving SSI. When the Service Agency discovered the error, it advised Claimant and other affected clients that they would need to qualify for and receive SSI payments. In that regard, the Service Agency provided Claimant with information to apply for SSI.

² All statutory references are to the Welfare and Institutions Code.

5. On July 30, 2015, Claimant applied for SSI. On October 27, 2015, the Social Security Administration denied Claimant's request for SSI, asserting Claimant received too much income to be eligible for SSI. Specifically, Claimant is the beneficiary of his father's life insurance policy.

6. Claimant contends he needs the SSPs of \$61.20 per month to help address his monthly expenses. Claimant submitted evidence showing he incurs approximately \$1311.47 per month in monthly expenses. However, he also submitted evidence showing he receives approximately \$1,611 per month of income, minus the \$61.20 of SSPs he has been receiving per month.

LEGAL CONCLUSIONS

1. The Lanterman Developmental Disabilities Services Act (Lanterman Act) governs this case. (Welf. & Inst. Code, § 4500 et seq.)¹ An administrative "fair hearing" to determine the rights and obligations of the parties, if any, is available under the Lanterman Act. (§§ 4700-4716.) Proper jurisdiction was established by virtue of ELARC's denial of SSP funding and the Fair Hearing Request on behalf of Claimant. (Factual Finding 2).

2. In enacting the Lanterman Act, 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. (§ 4501.) The Lanterman Act gives regional centers, such as ELARC, a critical role in the coordination and delivery of services and supports for persons with disabilities. (§ 4620 et. seq.)

3. Regional centers are responsible for developing and implementing an Individual Program Plan (IPP) for its clients, taking into account consumer needs and preferences, and for ensuring service cost-effectiveness. (§§ 4646, 4646.5, 4647, and 4648.) As amended in 2009, section 4659, subdivision (a)(1), directs regional centers to "identify and pursue all possible sources of funding."

4. The purpose of SSI is to assure a minimum level of income for people who are 65 and over, blind or disabled. (34 C.F.R. § 416.110 (1997).) States are required to provide minimum mandatory SSP to aged, blind and disabled recipients of SSI. (34 C.F.R. § 416.110(f) (1997).) SSP payments are made by states to recipients of SSI and to individuals who would be eligible except for income. (34 C.F.R. § 416.2001(a) and (d) (1997))

5. Here, the evidence showed that the Social Security Administration found Claimant did not meet the federal eligibility requirements for SSI, because his income was too high. As such, Claimant is not entitled to receive SSP payments from the Service Agency. Accordingly, Claimant's appeal is denied.

ORDER

Claimant's appeal is denied.

Date: November 23, 2015

CARLA L. GARRETT
Administrative Law Judge
Office of Administrative Hearings

NOTICE

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