

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

CLAIMANT,

and

SAN DIEGO REGIONAL CENTER,

Service Agency.

OAH No. 2016110539

DECISION

Adam L. Berg, Administrative Law Judge, Office of Administrative Hearings (OAH), State of California, heard this matter in San Diego, California, on February 13, 2017.

Ron House, Attorney at Law, represented San Diego Regional Center (SDRC).

Claimant represented himself and was present at the hearing.

The matter was submitted on February 13, 2017.

ISSUE

Did SDRC properly determine that claimant was no longer eligible for rental subsidy assistance?

FACTUAL FINDINGS

1. On October 13, 2016, SDRC notified claimant through a Notice of Proposed Action that claimant's rental subsidy would end effective November 30, 2016. Claimant filed a Fair Hearing Request; this hearing ensued.

2. The Rental Subsidy Venture Program (RSVP) is a program SDRC provides designed to provide interim rental subsidy assistance for approved consumers who live

in independent living/supported living settings in the community while they are on a waiting list for Section 8 vouchers, a generic resource. SDRC contracts with Community Interface Services (CIS) to review SDRC client applications, determine whether clients are eligible for RSVP, and thereafter administer the program for the approved SDRC client. Eligibility for the program is based on a number of requirements, including the individual's income. The subsidy amount is the difference between 35 percent of the individual's income and share of the fair market rent, or actual rent, whichever is less. Individuals in the program are required to submit an annual application to continue in the program. While the eligibility and subsidy amounts are modeled after and designed to be compatible with Public Housing Authority Section 8 guidelines, RSVP is a program developed by SDRC, which is solely responsible for setting the guidelines. Thus, there are no state laws or regulations governing its administration.

3. Claimant is a 41-year-old regional center consumer. Claimant was initially approved for RSVP payments in April 2011 and began receiving payments in June 2011. On June 23, 2016, claimant submitted an annual application to CIS to continue to receive an RSVP subsidy. In the application, claimant indicated he received \$1,147 a month in Social Security payments, lived in a single benefit apartment, and had a monthly rent of \$900. Claimant included paystubs from his employers for several pay periods. On September 1, 2016, CIS sent claimant a letter notifying him that he was ineligible for RSVP because he was paying less than 35% of his income on rent. CIS again reviewed claimant's eligibility based on additional paystubs he submitted. On October 12, 2016, CIS again notified claimant that he was ineligible based on his income to rent ratio.

4. At hearing, SDRC provided a subsidy calculation form CIS used in computing claimant's eligibility. Under the RSVP guidelines, the income eligibility for a single person is \$29,750 a year. Based on the pay stubs submitted in addition to the

Social Security payments, CIS calculated that 35% of his monthly income exceeded the \$900 claimant was paying in rent.¹ Because claimant was paying less than 35 percent of his income to rent and exceeded the income eligibility, he was ineligible for RSVP benefits.

5. Claimant testified that several days before the hearing he was terminated from his job. He also submitted a letter from his landlord stating that his rent has increased to \$990 a month. Based on his current financial situation, claimant believes he is now eligible for RSVP assistance.

6. Ashlie Stephenson, program manager at SDRC, testified that pursuant to guidance from the Department of Developmental Services, SDRC is no longer accepting new applications for RSVP. However, because claimant was a previous recipient, he would be allowed to submit a new application to request resumption of his benefits. Claimant received his last RSVP payment in January 2017.

LEGAL CONCLUSIONS

1. The Lanterman Act is set forth at Welfare and Institutions Code section 4500 et seq. Welfare and Institutions Code section 4501 provides:

The State of California accepts a responsibility for persons with developmental disabilities and an obligation to them which it must discharge. Affecting hundreds of thousands of

¹ Claimant averaged \$692.74 a pay period based on five bi-weekly pay periods. With 26 pay periods a year, claimant's average salary was \$18,011, which is \$1,500.94 per month. Adding his monthly SSA payment of \$1,147, claimant had a total monthly income of \$2,647.94. Thirty-five percent of claimant's monthly income is \$926.78. Thus, claimant's \$900 per month rent –is less than 35 percent of his monthly income.

children and adults directly, and having an important impact on the lives of their families, neighbors and whole communities, developmental disabilities present social, medical, economic, and legal problems of extreme importance . . .

An array of services and supports should be established which is sufficiently complete to meet the needs and choices of each person with developmental disabilities, regardless of age or degree of disability, and at each stage of life and to support their integration into the mainstream life of the community. To the maximum extent feasible, services and supports should be available throughout the state to prevent the dislocation of persons with developmental disabilities from their home communities.

2. SDRC provides RSVP rental assistance to its consumers who meet certain income eligibility requirements. In June 2016, claimant submitted an application to continue receiving RSVP benefits. SDRC's vendor determined that claimant was no longer eligible based on his income to rent ratio. A preponderance of evidence established that claimant's income, at the time of his application, exceeded the program's requirements, such that he was paying less than 35 percent of his income for rent. As such, SDRC properly determined that claimant was no longer eligible for the RSVP benefit.

However, as claimant's financial situation has recently changed, he is encouraged to submit a new application to SDRC containing the updated information.

ORDER

Claimant's appeal is denied.

DATED: February 23, 2017

ADAM L. BERG
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 ninety days.