

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

CLAIMANT,

vs.

EASTERN LOS ANGELES REGIONAL
CENTER,

Service Agency.

OAH No. 2015060997

DECISION

Administrative Law Judge Eileen Cohn, Office of Administrative Hearings (OAH), State of California, heard this matter on October 2, 2015, in Whittier, California.

Claimant was present and represented himself. Edith Hernandez represented East Los Angeles Center (ELARC or Service Agency).

Evidence was presented and testimony heard. The record was closed and the matter submitted for decision on October 2, 2015.

ISSUE

The parties agreed the sole issue is whether ELARC is obligated to fund supplemental security payments (SSP).

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FACTUAL FINDINGS

1. Claimant is an adult living independently and qualifies for regional center services based upon a diagnosis of cerebral palsy.

2. On May 28, 2015, ELARC provided claimant with a Notice of Proposed Action (NOPA) notifying him that his monthly SSP in the amount of \$61.20 would be terminated. ELARC notified claimant that his SSP was made in error because claimant does not receive supplementary security income (SSI) (Exhibit 1). Claimant timely requested a fair hearing and this matter commenced (Exhibit 2). All jurisdictional requirements for OAH's jurisdiction to hear this matter were satisfied.

3. Claimant received \$870 dollars a month in SSI based upon his disability and low income prior his father's death. Due to his receipt of SSI, claimant was eligible for SSP.

4. About three years ago, when claimant's father died, claimant began receiving social security benefits in the amount of \$1300 as his father's disabled adult child. Prior to his father's death claimant had not received any social security benefits based upon his own work record. Social security is an "entitlement" program for workers, employers, and the self-employed who pay for the benefits with Social Security taxes. Individuals qualify for social security benefit programs based upon their work history, or the work history of a spouse or parent.

5. After claimant began receiving social security benefits the Social Security Administration determined he was no longer eligible for SSI. The Social Security Administration determines the qualifications for SSP. SSP can only be provided to individuals who qualify for SSI. SSI is a needs-based program for people with limited income and resources. Regional Centers are responsible for distributing SSP to qualifying regional center clients.

6. ELARC continued to pay claimant SSP even though he was no longer

eligible. Once ELARC discovered the error, it notified claimant it would stop paying him SSP.

7. On March 6, 2015, an individual program plan meeting (IPP) was held with all necessary participants, including claimant, and claimant's SSP payment was continued (Exhibit 7). Later ELARC discovered claimant no longer received SSI and erred by continuing claimant's SSP. ELARC prepared and served claimant with the NOPA. At the time of the IPP and the hearing, claimant was not receiving SSI.

8. Claimant testified at hearing and provided credible and reliable testimony of his need for the monthly SSP to pay for his food and other necessary monthly expenses. ELARC did not dispute claimant's account of his needs and the propriety of claimant's use of SSP for necessary expenditures. ELARC's objection to the SSP payment was based solely on claimant's inability to satisfy the federal legal requirement that he receive SSI as a condition of receiving SSP. Claimant's appeal is denied because he was not eligible for SSI at the time of the hearing.

LEGAL CONCLUSIONS

Based upon the foregoing factual findings, the Administrative Law Judges makes the following 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

¹ Unless otherwise noted all statutory references are to the Welfare and Institutions Code.

Findings 1-2).

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.) Here, ELARC coordinated the delivery of SSP based upon federal guidelines (Factual Finding 5-6).

3. Regional centers are responsible for developing and implementing IPPs, for 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.” ELARC distributes SSP based upon federal guidelines. (Factual Finding 5).

4. Social security benefits are provided to the surviving adult disabled children of workers based on the workers’ earnings record. (34 C.F.R. § 404.350(a)(5) (1996).) After claimant’s father died claimant received monthly social security benefits in the amount of \$1300 based upon his father’s earnings record. Claimant had not previously received any social security benefits based upon his own work record (Factual Finding 4).

5. 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 is provided to recipients of SSI and to individuals who would be eligible except for income. (34 C.F.R. § 416.2001(a) and (d) (1997).) There was no evidence that complainant met federal eligibility requirements for SSI based on any reason other than his disability and income (Factual Findings 1, 3-7). (Compare, e.g., 24

C.F.R. § 416.212(b)(i) (2007) (continuation of SSI allowed in certain cases of medical confinement).)

6. Claimant demonstrated that SSP was necessary for his support (Factual Finding 8). However, claimant had not met the threshold requirement for continued receipt of SSP because the Social Security Administration terminated his SSI benefits. Claimant's appeal is denied because he was not receiving or eligible for SSI at the time of the hearing.

ORDER

Claimant's appeal is denied. ELARC is not required to provide SSP to claimant.

DATED: October 8, 2015

EILEEN COHN

Administrative Law Judge

Office of Administrative Hearings

NOTICE

This is the final administrative decision in this matter. Judicial review of this decision may be sought in a court of competent jurisdiction within ninety (90) days.