

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

CLAIMANT,

vs.

EASTERN LOS ANGELES REGIONAL
CENTER,

Service Agency.

OAH No. 2015060999

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 herself. Edith Hernandez represented Eastern 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 with her husband of 37 years, and qualifies for regional center services based upon a diagnosis of mild intellectual disability.

2. On May 29, 2015, ELARC provided claimant with a Notice of Proposed Action (NOPA) notifying her that SSP in the monthly amount of \$61.20 would be terminated as they were 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. At a time not established by the evidence, claimant began receiving SSI. Later, claimant began receiving \$1148 monthly in social security benefits. Claimant receives social security payments, based upon the work history of her deceased parents, as a surviving adult child with a disability. There was no evidence as to when claimant's parents died and when she began receiving social security benefits.

4. Once claimant began receiving \$1148 monthly social security benefits, the Social Security Administration terminated her SSI payments. The Social Security Administration terminated claimant's SSI based on its determination that her monthly social security benefits were too high to qualify her for SSI.

5. The federal Social Security Administration determines the qualifications for SSP payments. SSP payments can only be made 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 SSP to claimant even though she was no longer eligible because she was not getting SSI. Once ELARC discovered the error, it notified claimant it would stop paying her SSP.

7. On August 26, 2015, an individual program plan meeting (IPP) was held with

all necessary participants, including claimant, and claimant's SSP was continued pending claimant's appeal Decision (Exhibit 7). At the time of the IPP and the hearing, claimant was not receiving SSI.

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 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).

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

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

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 parents died claimant began receiving social security benefits in the amount of \$1148 based upon her parents’ earnings record. (Factual Finding 3).

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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 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)) There was no evidence that complainant met federal eligibility requirements for SSI based on any reason other than her disability and income (Factual Findings 1-7). (Compare, e.g., 24 C.F.R. § 416.212(b)(i) (2007) (continuation of SSI allowed in certain cases of medical confinement).) Claimant’s appeal is denied because she 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.