

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

CLAIMANT,

vs.

EASTERN LOS ANGELES REGIONAL
CENTER,

Service Agency.

OAH No. 2015061186

DECISION

Matthew Goldsby, Administrative Law Judge with the Office of Administrative Hearings, heard this matter on September 24, 2015, at Los Angeles, California.

Carmen Vasquez, Fair Hearing Representative, appeared and represented Eastern Los Angeles Regional Center (Service Agency).

Claimant's mother¹ appeared and represented claimant, who was also present throughout the hearing.

Oral and documentary evidence was received. The record was closed and the matter was submitted for decision at the conclusion of the hearing.

STATEMENT OF ISSUES

The issue in this matter is whether the Service Agency should be required to

¹ Claimant and his family are not identified by name in order to protect their privacy.

make State Supplementary Payments (SSP) to claimant.

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EVIDENCE CONSIDERED

1. Service Agency's Exhibits 1 through 8;
2. The testimony of Eric Morago, claimant's living coordinator, and claimant's mother.

FACTUAL FINDINGS

1. Claimant is a 45-year-old male with cerebral palsy. He lives independently. His mother and father were appointed the limited conservators of his person by Letters of Conservatorship issued on January 6, 2000.

2. On December 24, 2003, claimant's father died. Claimant was eligible to receive survivorship benefits from the Social Security Administration.

3. In 2014, claimant received social security benefits in the amount of \$1,126 per month. In addition, he received state SSP benefits in the amount of \$61.20 per month.

4. In 2015, the Social Security Administration increased claimant's social security benefit amount to \$1,220 per month.

5. On July 6, 2015, claimant's mother applied on behalf of claimant for Supplemental Security Income (SSI). The application also constituted an application for additional SSP benefits under the SSI program.

6. The maximum federal SSI benefit rate was \$8,804.43 per year (\$733 per month) for the period beginning January 1, 2015.² (20 C.F.R. § 416.410 (1996).) In

² Each year, the Social Security Administration determines the unrounded annual amount by applying a cost-of-living adjustment based on the Consumer Price Index. (20

California, the maximum SSP benefit amount for an eligible individual was \$156.40 in 2015. (20 C.F.R. § 416.2050 (1975).)

7. On July 14, 2015, the Social Security Administration denied the application because claimant's countable income³ exceeded the allowable eligibility limit for SSI. For the same reasons, claimant was denied SSP benefits.

8. Effective July 1, 2015, the Service Agency discontinued making payments of SSP benefits to claimant.

9. Claimant was relying on the SSP benefits to pay for supplies and materials relating to his care. Claimant's mother regularly spends approximately \$200 per month to pay for claimant's supplies and materials because claimant's income is insufficient to pay for all of his needs. The discontinuation of SSP benefits will increase the financial burden on claimant and his mother to pay for related supplies and materials.

LEGAL CONCLUSIONS

1. For the reasons discussed below, claimant's appeal is denied. His income exceeds the eligibility requirements for SSP benefits. Accordingly, the Service Agency is not required to pay SSP benefits to claimant. (Factual Findings 1-9.)

2. The State of California has a responsibility to provide services to persons with developmental disabilities, and those individuals have the right to receive services, pursuant to the Lanterman Developmental Disabilities Services Act. (Welf. & Inst. Code, § 4500.5.)

3. Regional center funds shall not be used to supplant the budget of any

C.F.R. § 416.405 (1986).)

³ After applying applicable exclusions, claimant's countable income was \$1,200 per month.

agency that has a legal responsibility to serve all members of the general public and that is receiving public funds for providing those services. (Welf. & Inst. Code, § 4648, subd. (a)(8).)

4. The Service Agency is mandated to identify and pursue all possible sources of funding for claimant, as a consumer receiving regional center services, including SSI and SSP. (Welf. & Inst. Code, § 4659, subd. (a)(1).)

5. Eligibility for SSP benefits and the amount payable to eligible individuals (SSP Rate) are determined under the Code of Federal Regulations, title 20, part 416, Supplemental Security Income for the Aged, Blind, and Disabled.

6. SSP benefits include any payment made by the State of California to supplement a recipient's SSI benefits. (20 C.F.R. § 416.2001 (1975).)

7. The federal regulations provide: "The amount of income you have is a major factor in deciding whether you are eligible for SSI benefits and the amount of your benefit. We count income on a monthly basis. Generally, the more income you have the less your benefit will be. If you have too much income, you are not eligible for a benefit." (20 C.F.R. § 416.1100 (1985).)

8. The monthly SSI benefit amount is computed by reducing the federal benefit rate by the amount of countable income. (20 C.F.R. § 416.420(a) (1985).) If countable income exceeds the amount of the federal benefit rate, the SSP Rate is reduced by the amount of the excess. (20 C.F.R. § 416.2025(b)(2) (1975).) No SSP benefits are payable where countable income is equal to or exceeds the sum of the federal benefit rate and the SSP Rate. (20 C.F.R. § 416.2025(b)(4) (1975).)

9. In this case, claimant's countable income was \$1,200, which exceeded the maximum federal benefit amount of \$733 by the sum of \$467. Because claimant's countable income exceeded the federal benefit rate, the SSP Rate was required to be reduced by the excess. Because the excess (\$467) is greater than the maximum SSP Rate

(\$156.40), no SSP benefits are payable to claimant, notwithstanding the financial burdens caused by the discontinuation of those benefits.

ORDER

Claimant's appeal is denied. The Service Agency is not required to pay SSP benefits to claimant.

DATED: September 30, 2015

MATTHEW GOLDSBY
Administrative Law Judge
Office of Administrative Hearings

NOTICE

This is the final administrative decision pursuant to Welfare and Institutions Code section 4712.5(b)(2). Both parties are bound by this decision. Either party may appeal this decision to a court of competent jurisdiction within 90 days.