

**BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA**

In the Matter of:

CLAIMANT

vs.

REGIONAL CENTER OF THE EAST BAY, Service Agency.

OAH No. 2024041168

DECISION

Administrative Law Judge Frances M. Valdez, State of California, Office of Administrative Hearings, served as the hearing officer for this matter on June 10, 2024, by videoconference.

Claimant was represented by her sister and cousin, who are her authorized representatives. Claimant was not present.

Ronke Sudipo, Director of Client Services, represented the Regional Center of the East Bay (RCEB), the service agency.

The record was held open until June 17, 2024, for the parties to submit written closing arguments. Claimant's representatives submitted a timely written closing argument, which was admitted into evidence as Exhibit EE. RCEB submitted a timely written closing argument, which was admitted into evidence as Exhibit 19.

The record closed and the matter was submitted for decision on June 17, 2024.

ISSUE

Did RCEB improperly deny claimant's request for RCEB to repay \$28,809.70 to the Social Security Administration (SSA) on claimant's behalf?¹

FACTUAL FINDINGS

1. Claimant is an adult who works and lives independently in the community with independent living skills support. Claimant is not conserved. Claimant is eligible under the Lanterman Developmental Disability Services Act (the Lanterman Act, Welf. & Inst. Code, § 4500 et seq.)² for services from RCEB because claimant is substantially disabled by intellectual disability, a developmental disability.

2. Claimant receives Social Security Disability Insurance (SSDI) benefit payments on a monthly basis. Since 2003, RCEB has been the representative payee for

¹ This issue is the only issue identified in the Notice of Action from which claimant appeals. At hearing, claimant's representatives urged the hearing officer to resolve additional disputes. The hearing officer will not do so in this decision. Claimant's representatives may address issues beyond the issue set forth in the Notice of Action through another administrative appeal or in another forum.

² All statutory references are to the Welfare and Institutions Code, unless otherwise stated.

claimant and manages an account that receives the SSDI benefit payments. Claimant enjoys working and earning money. To maintain SSDI benefits, claimant's employment earnings may not exceed the SSA's substantial gainful activity (SGA) limit. SSA determined that claimant had received SSDI overpayments from August 2021 through April 2023 in the amount of \$28,809.70, because she engaged in SGA over the limit. SSA now seeks to collect this overpayment amount from claimant. Claimant requests that RCEB fund the repayment of the SSDI overpayments.

3. RCEB issued a letter and notice of proposed action on February 28, 2024, denying claimant's request to repay the SSDI overpayment in the amount of \$28,809.70.

4. Claimant submitted a fair hearing request on April 25, 2024.

5. An informal meeting was held with claimant's authorized representatives and Karen Zepeda, a case management supervisor, on May 8, 2024. In a letter dated May 10, 2024, RCEB again denied claimant's request. This hearing followed.

Regional Center as Representative Payee

6. The Lanterman Act does not require regional centers to act as representative payees on behalf of consumers. However, RCEB acts as a representative payee as a courtesy to consumers. RCEB will assist with managing public benefits when a consumer or their family is unable to manage their public benefits.

7. When acting as a representative payee, RCEB manages only public benefit funds. RCEB operates checking or savings accounts for consumers; public benefits are deposited into the account and RCEB pays consumer bills from that account. If the consumer is employed, the consumer is responsible for their

employment earnings. RCEB attempts to collect pay stubs on a monthly basis and report consumer earnings to SSA. This service requires RCEB to be in contact with the consumer, any job coaching agency, and other supports to obtain the necessary information. RCEB's client trust team monitors consumer income to determine if a consumer is close to reaching the SGA limit and losing SSDI benefit payments. If the client trust team notices that a consumer is close to reaching the SGA limit, they reach out to the consumer's case worker. If consumer pay stubs are missing, the client trust team attempts to escalate the matter to obtain the necessary information.

8. When SSA identifies an overpayment to a consumer, RCEB is notified. RCEB evaluates records and submits documentation to SSA. In cases where RCEB determines there was an SSDI overpayment, RCEB requests that SSA waive the overpayment, to avoid affecting the consumer's ability to live independently in the community.

Social Security Administration's Overpayment to Claimant

9. As early as April 17, 2017, claimant was informed of the SGA limit and that to continue receiving SSDI benefit payments, she must keep her working hours low. Claimant's support team has had several conversations with claimant addressing the importance of limiting her work so that it does not take her over the SGA limit. It was also discussed that pay stubs were needed in a timely manner.

10. In claimant's case, RCEB attempted to collect pay stubs from claimant in 2021; however, RCEB did not receive the pay stubs until April 2023. There was some difficulty obtaining claimant's pay stubs because of claimant's job changes and challenges obtaining claimant's pay stubs online.

11. In April 2023, SSA notified RCEB that claimant's SSDI benefit payments were being considered for termination because her employment earnings were over the SGA limit. RCEB obtained claimant's pay stubs and compared them to SSA's records regarding claimant. RCEB agreed with SSA's assessment because it appeared claimant was over the SGA limit for at least the month of August 2021 due to her monthly employment earnings.

12. RCEB requested in September 2023 that the overpayment be waived. SSA refused to waive this particular overpayment because it has waived overpayments to claimant in the past. RCEB inquired regarding an appeal process, but an SSA representative advised that it would not be beneficial to appeal because claimant did not meet the waiver criteria and SSA would not be willing to waive overpayment because of a history of overpayments to claimant. RCEB did not pursue an appeal of the waiver denial on claimant's behalf because RCEB did not believe there was a basis to do so.

13. RCEB submitted forms for an expedited reinstatement of claimant's SSDI benefit payment, and claimant's benefit payments were reinstated by March 2024. However, SSA is withholding funds each month to recoup the \$28,809.70 overpayment.

14. RCEB emphasized that acting as an authorized payee is a voluntary support offered by RCEB. Claimant enjoys working and RCEB cannot prevent claimant from earning more than the SGA limit. RCEB provides information and guidance as to how to best manage finances, but ultimately RCEB must respect each individual's choice. RCEB works to assist claimant in making decisions and encourages her to make decisions that are beneficial and mitigate harm, but she can make her own decisions.

15. Claimant's representatives contended that RCEB's lack of oversight as claimant's representative payee led to the overpayment issue and RCEB should be held accountable for the overpayment. Claimant argued that RCEB did not timely complete required reporting to SSA and did not pass information or notices from SSA to claimant. Claimant contends that RCEB should have filed an appeal of the waiver denial because she believes there was no overpayment. Claimant's representatives believe claimant is unable to understand the SGA limit and the overpayment should not have happened.

LEGAL CONCLUSIONS

1. The State of California accepts responsibility for persons with developmental disabilities under the Lanterman Act. The Lanterman Act provides that an "array of services and supports should be established . . . to meet the needs and choices of each person with developmental disabilities . . . and to support their integration into the mainstream life of the community." (§ 4501.) The purpose of the Lanterman Act is to prevent or minimize the institutionalization of persons with developmental disabilities and their dislocation from family and community; and to enable persons with developmental disabilities to approximate the pattern of everyday living of nondisabled persons of the same age and lead more independent and productive lives. (§§ 4501, 4685; *Association for Retarded Citizens v. Department of Developmental Services* (1985) 38 Cal.3d 384, 388 [the term "intellectual disability" has now replaced the formerly used term "mental retardation"].)

2. The Department of Developmental Services (Department) is the state agency charged with implementing the Lanterman Act. It contracts with regional

centers that are responsible for providing persons who have developmental disabilities with access to services and supports best suited for them. (§ 4620, subd. (a).)

3. While regional centers have a duty to provide a wide array of services to consumers, they are also directed by the Legislature to provide the services in a manner that reflects the cost-effective use of public resources. (§§ 4646, subd. (a), 4640.7, subd. (b).) Accordingly, regional centers may not fund duplicate services that are available through another public agency that has a legal responsibility to serve the general public. This prohibition against “supplanting generic resources” is contained in section 4648, subdivision (a)(8). Regional centers must identify and pursue all possible sources of funding for services, including generic services (§ 4646.4, subd. (a)(2)), governmental entities or programs that are required to pay the cost of providing services (§ 4659, subd. (a)(1)), and private entities that may be liable for the cost of services to the consumer (§ 4659, subd. (a)(2)). Each regional center is also required to comply with the purchase of service policies established for the regional center and approved by the Department. (§ 4646.4, subd. (a).)

4. The Lanterman Act entitles claimant to an administrative fair hearing to review RCEB’s service decisions. (§ 4710 et seq.) Claimant bears the burden in this matter to prove that the Lanterman Act requires RCEB to deliver the services and supports she requests.

5. Claimant requests RCEB fund or repay SSDI overpayments; SSDI payments are a generic resource. RCEB cannot fund duplicate services or supplant generic resources. RCEB can fund only direct services that are provided to a consumer. Claimant’s representatives did not identify any statute, regulation, or policy that permits the Office of Administrative Hearings (OAH), through an administrative fair hearing, to compel a regional center to pay back SSDI overpayments a consumer has

received. The Lanterman Act does not provide funds for reimbursing consumers for overpayments made to them by the SSA, and an administrative fair hearing under the Lanterman Act is not a forum for assessing damages against a regional center for prior service delivery errors, if any. At most, RCEB is authorized to provide services to claimant to assist her in managing her money and realizing financial independence. As representative payee for claimant's SSDI benefit, RCEB is responsible for receiving those funds and disbursing them to claimant, which it appears to have done. RCEB requested a waiver on claimant's behalf, but it was denied by SSA. RCEB did not file an appeal of claimant's waiver request.

6. Claimant's representatives point to an undated SSA Office of Disability Adjudication and Review Decision, which found that a consumer and RCEB were jointly and severally liable for an SSDI overpayment. To the extent that claimant's representatives request the same relief by this administrative fair hearing under the Lanterman Act, OAH is not the proper forum.

ORDER

Claimant's appeal is denied. However, RCEB shall work cooperatively with claimant and claimant's representatives to file an appeal of the waiver denial to SSA should claimant wish to pursue an appeal.

DATE:

FRANCES M. VALDEZ

Administrative Law Judge

Office of Administrative Hearings

NOTICE

This is the final administrative decision. Each party is bound by this decision. Either party may request a reconsideration pursuant to subdivision (b) of Welfare and Institutions Code section 4713 within 15 days of receiving the decision, or appeal the decision to a court of competent jurisdiction within 180 days of receiving the final decision.