

BEFORE THE  
OFFICE OF ADMINISTRATIVE HEARINGS  
STATE OF CALIFORNIA

In the Matter of:

DENNIS S.,

Claimant,

vs.

REDWOOD COAST REGIONAL CENTER,

Service Agency.

OAH No. N 2004090517

**DECISION**

This matter was heard before Michael C. Cohn, Administrative Law Judge, State of California, Office of Administrative Hearings, in Lakeport, California, on September 13, 2005.

Claimant was represented by his sister, Deborah D.

The service agency was represented by Kathleen Kasmire, Supervisor, Adult Unit, Humboldt County, and John Murphy, Supervisor, Adult and Children's Unit, Lake County.

The matter was submitted for decision on September 13, 2005.

**ISSUE**

The issue is whether claimant is eligible for services under the Lanterman Act because of epilepsy.

**FACTUAL FINDINGS**

1. Claimant is 43 years old. He was referred to the service agency in July 2004 by his sister, who serves as his authorized representative, because of her belief that claimant suffers from a seizure disorder that causes low cognitive functioning. On August 20, 2004, the service agency notified claimant that it had concluded he was not eligible for regional

center services because he did not have a substantially handicapping disability as defined by law. Claimant appealed.

2. Claimant suffered a serious head injury when he was seven years old. In January 1970 he fell out of a bunk bed and hit his head on a concrete floor. He went into a coma and was found to have a left parietal epidural hematoma. This was surgically drained with a burr hole craniotomy. By the morning after surgery, he was awake, alert, and talking, and his neurological examination was normal. He remained in the hospital for one week after the injury. A follow-up neurological examination a week after discharge was normal. Although EEGs done in March and September 1970 were somewhat abnormal, claimant was found to have fully recovered clinically from his injury. He was never diagnosed with epilepsy.

3. According to his sister, claimant changed after the head injury. Before the injury he was sweet and loving. After the injury he was emotional, angry, and rebellious. He acted out irrationally. Claimant began having seizures in which he would “blank out.” At age 13 he ran away from home and lived on the streets for a time. He began using drugs (amphetamines) at this time. Claimant continues to “self-medicate” with amphetamines.

4. Claimant’s school records are scanty. Most have apparently been lost. It appears he may have been in special education from 1972 until 1977. He began high school in the fall of 1977. He appears to have been placed in regular education courses (although he was in a World History class for “slow” learners). In the ninth grade his grades were mainly in the D and F range. Claimant dropped out of school in the fall semester of 1978 and joined the Job Corps. He re-enrolled in high school in the spring of 1979 but did not go beyond the 10th grade.

5. Claimant apparently spent much of the 1980’s in jail. In 1991, claimant’s sister and his probation officer assisted him in applying for SSI benefits. He has received SSI since 1991 on the basis of “organic mental disorder” and personality disorder.

6. In July 2004, an EEG was done to “rule out seizure.” The history given was that claimant “had a blackout spell one year ago and most recently about two days ago was unconscious for half an hour.” However, the EEG was normal, showing no signs of focal or paroxysmal activity, the latter of which would be indicative of epilepsy.

7. According to his sister, claimant’s seizures generally consist of a few seconds of lost consciousness. He just “blanks out,” then startles and wakes himself up. When the seizures occur he appears to be drunk and disoriented. These events happen frequently, once an hour or more. Psychologist Albert Kastl, Ph.D., testified on behalf of the service agency in this proceeding. During his evaluation of claimant in April 2005 Dr. Kastl witnessed one of these “seizures.” He testified that claimant seemed to lose track of what he was saying for a few seconds.

8. Other than the testimony of claimant's sister, there was no evidence presented to show that claimant had seizures prior to age 18.

### LEGAL CONCLUSIONS

1. Under the Lanterman Developmental Disabilities Services Act,<sup>1</sup> the State of California accepts responsibility for persons with developmental disabilities.<sup>2</sup> As defined in the act, a developmental disability is a disability that originates before age 18, that continues or is expected to continue indefinitely, that constitutes a substantial disability for the individual, and that is attributable to one of five conditions, one of which is epilepsy.<sup>3</sup>

2. To qualify for regional center services, claimant must not only show that he has epilepsy, but also that the condition originated before he was 18 and that it constitutes a substantial disability for him. Here, claimant has never been diagnosed with epilepsy. Although he did have somewhat abnormal EEGs immediately after his head injury at age seven, no diagnosis of epilepsy was made. And although claimant has a disability for which he receives SSI benefits, that is based upon conditions other than epilepsy. The evidence presented failed to establish that claimant has epilepsy that originated before age 18. He is therefore not eligible for regional center services.

### ORDER

Claimant's appeal of the service agency's denial of eligibility for services under the Lanterman Act is denied. He is not eligible for regional center services.

### 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 90 days.

DATED: \_\_\_\_\_

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MICHAEL C. COHN  
Administrative Law Judge  
Office of Administrative Hearings

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<sup>1</sup> Welfare and Institutions Code section 4500 et seq.

<sup>2</sup> Welfare and Institutions Code section 4501.

<sup>3</sup> Welfare and Institutions Code section 4512, subdivision (a).