

BEFORE THE  
OFFICE OF ADMINISTRATIVE HEARINGS  
STATE OF CALIFORNIA

In the Matter of:

CLAIMANT,

and

INLAND REGIONAL CENTER,

Service Agency.

OAH No. 2016040104

DECISION

On May 16, 2016, Debra D. Nye-Perkins, Administrative Law Judge, Office of Administrative Hearings, State of California, heard this matter in San Bernardino, California.

Leigh-Ann Pierce, Consumer Services Representative, Fair Hearings and Legal Affairs, represented the Inland Regional Center (IRC).

Claimant's mother, his legal guardian, represented claimant who was present.

Oral and documentary evidence was introduced, and the matter was submitted on May 16, 2016.

ISSUE

1. Is claimant eligible for regional center services under the Lanterman Developmental Disabilities Services Act (Lanterman Act) on the basis of a diagnosis of autism?
2. Is IRC required to perform an intake and assessment of claimant to determine if he is eligible for regional center services under the Lanterman Act?

## FACTUAL FINDINGS

### JURISDICTIONAL MATTERS

1. Claimant is a 19 year-old boy who lives with his parents. His mother sought regional center services for claimant because a third party vendor for the Department of Rehabilitation recommended that claimant receive authorization for services from IRC to address his "specific target barriers for successful employment." Claimant's mother believes that claimant has a number of issues, and she believes that he exhibits sufficient autistic-like characteristics to qualify for services. Claimant's mother believes that without services from IRC, claimant will not be able to overcome his barriers to employment.

2. Sometime in March 2016, claimant requested that IRC provide services to claimant. As part of that request, claimant provided various documents to IRC, including a letter from claimant's psychiatrist, a report from a third party vendor of the Department of Rehabilitation, and documents from claimant's school district to support claimant's request for services.

3. On March 24, 2016, IRC notified claimant that he was not eligible for regional center services based on a review of his records because he does not have a disability that qualifies him to receive IRC services.

4. On March 28, 2016, claimant's mother filed a fair hearing request appealing IRC's decision.

### DIAGNOSTIC CRITERIA FOR AUTISM SPECTRUM DISORDER

5. The American Psychiatric Association's *Diagnostic and Statistical Manual of Mental Disorders, Fifth Edition* (DSM-5) identifies criteria for the diagnosis of Autism Spectrum Disorder. The diagnostic criteria includes persistent deficits in social communication and social interaction across multiple contexts; restricted repetitive and stereotyped patterns of behavior, interests, or activities; symptoms that are present in the

early developmental period; symptoms that cause clinically significant impairment in social, occupational, or other important areas of function; and disturbances that are not better explained by intellectual disability or global developmental delay. An individual must have a DSM-5 diagnosis of autism spectrum disorder to qualify for regional center services under autism.

#### EDUCATIONAL AND PSYCHOLOGICAL RECORDS REVIEWED BY IRC

6. Since at least 2004, claimant has had a history of behavioral problems and low academic achievement. Claimant was first given a psychoeducational evaluation in October 2004 at the age of eight by his school district to determine his eligibility to enter special education classes. On November 1, 2004, Matthew Perry, the school psychologist, generated a report summarizing claimant's psychoeducational evaluation and concluded claimant did not qualify for special education services because he did not meet the eligibility criteria under a classification of specific learning disability as there were no discrepancies between claimant's cognitive ability and his academic achievement. Mr. Perry noted that claimant had difficulty with paying attention and that claimant "has been given a tentative diagnosis of PDD-Asperger's Spectrum" but that did not appear to be adversely affecting his education.

In his evaluation, Mr. Perry administered multiple tests to claimant, including the Gilliam Asperger's Disorder Scale (GADS), which is a behavior rating scale designed to evaluate individuals who may have Asperger's Disorder. Mr. Perry relied upon information provided by claimant's mother, teacher, and resource specialist to conduct that test. Mr. Perry stated that claimant's overall Asperger's Disorder Quotient "was 117, at the 87<sup>th</sup> percentile and indicates a High Probability that [claimant] may have the disorder." Mr. Perry also conducted a Conners' Parent Rating Scale (CPRS) test, which is useful in characterizing symptoms of Attention Deficit Hyperactivity Disorder (ADHD) and similar behavioral problems. The results of this test demonstrated that claimant's "behaviors

indicate significant difficulties with attention and attention-related performance.”

7. Despite Mr. Perry’s report, in December 2004, claimant began receiving special education accommodations in his school in the Speech Resource Specialist Program based on a primary diagnosis of speech or language impairment. Documents from the school district in December 2004 stated that claimant was diagnosed with Asperger’s Syndrome by Joel Morton, D.O., who provided a letter to the school district so stating claimant had the diagnosis. No evidence of how Dr. Morton reached the opinion was introduced at hearing.

On September 6, 2005, claimant was evaluated by Bob Chang, Ph.D., Staff Psychologist at IRC, to determine his eligibility for services from IRC. Dr. Chang summarized his evaluation and findings in his report. He reviewed records regarding claimant’s history, interviewed his parents, and conducted an evaluation of claimant using the Childhood Autism Rating Scale (CARS). Dr. Chang noted that claimant had a prior diagnosis of Asperger’s Disorder from Loma Linda, but that claimant’s psychologist gave a diagnosis of an Impulse Control Disorder and Mood Disorder. Dr. Chang also noted that claimant developed early symptoms of hyperactivity and had tried 47 different medications to treat his hyperactivity with little effect.

8. Dr. Chang’s intellectual assessment of claimant revealed that claimant had a full scale I.Q. of 101, in the average range, and that claimant’s “results were inconsistent with the pattern of verbal deficits and nonverbal strengths associated with the performance of high functioning individuals with an Autistic Disorder.” Dr. Chang’s psychological assessment revealed that claimant has the ability to perform adaptive skills at close to age-level, and he exhibited a very short attention span. Dr. Chang further noted that claimant enjoyed attention and interaction, established good eye contact, used normal facial expressions and vocalizations. Dr. Chang stated that claimant made appropriate statements and asked appropriate questions, volunteered new information in

free-flowing conversation, and did not exhibit oddities in communication skills associated with "Autistic Disorder" or Asperger's Disorder.

Dr. Chang summarized his conclusions in his report as follows:

[Claimant] does not warrant a diagnosis of Autistic Disorder per DSM-IV-TR criteria. His early development history does not document the autistic syndrome by 3 years of age nor does he meet the criteria at this time. He has good communication skills. There is no history of communication impairments associated with Autistic Disorder.

[Claimant] has a significant history of Attention Deficit Hyperactivity Disorder. He warrants an additional diagnosis of an Oppositional Defiant Disorder. . . . [Claimant] does not appear to warrant a diagnosis of Asperger's Disorder. His extreme attention deficits, hyperactivity and impulsivity result in social deficits. He does not exhibit the social/emotional indifference associated with Asperger's Disorder. . . . No oddities in verbal/nonverbal communication were observed which were consistent with Asperger's Disorder. . . . His cognitive profile and behavioral symptoms appear to be inconsistent with Pervasive Developmental Disorders including Autistic Disorder and Asperger's Disorder. . . . He does not have an eligible condition for Regional Center Services. Further, Asperger's Disorder is not an eligible condition for Regional Center Services.

9. On September 7, 2005, claimant was evaluated by E. Ho, M.D., medical consultant to IRC, for his medical evaluation in connection with his request for eligibility for IRC services. Dr. Ho indicated in his report that claimant had been previously evaluated by many psychiatrists and psychologists. Dr. Ho noted that Dr. Morton diagnosed claimant with ADHD and another psychiatrist diagnosed him with impulse control disorder. Dr. Ho deferred the eligibility determination for IRC services pending the psychological evaluation of Dr. Chang.

10. On September 18, 2005, claimant was evaluated by Russell Thompson, Senior Counselor at IRC, for a Social Assessment in connection with his request for an eligibility determination for IRC services. Mr. Thompson provided a report of his assessment and noted that claimant was referred for the eligibility determination at IRC by the school district because claimant exhibits troublesome behaviors. Mr. Thompson noted that claimant had been seeing a psychiatrist on a monthly basis for some time. Mr. Thompson noted claimant's difficulty getting along with his peers, he has unacceptable outbursts and is aggressive. Mr. Thompson deferred the eligibility determination for IRC services pending the psychological evaluation by Dr. Chang.

11. A letter dated June 23, 2005, from Barbara Larsen, Licensed Clinical Social Worker for the Department of Mental Health, was provided to IRC. In the letter Ms. Larsen stated that claimant underwent an initial assessment at the mental health clinic and then attended one session of their Primary Socialization Group. Ms. Larsen stated that during that session, claimant "was not medicated and displayed extreme ADHD symptoms of inattention, excessive body movement, and lack of impulse control." Ms. Larsen stated in the letter that claimant's case was being held open while claimant was being evaluated by a psychiatrist for possible placement in the mental health facility.

12. Claimant submitted a letter dated January 27, 2016, from Richard T. Kotomori, Jr., M.D., psychiatrist with Quality Life Group Psychiatric and Psychological

Services. The letter was addressed "To whom it may concern," and stated that claimant had been under his care since 2013 and "is being treated for Autistic Spectrum Disorder and Attention Deficit Hyperactivity Disorder." The letter further stated "Patient has emotional regulation and learning difficulties; specifically following and understanding simple instructions. These symptoms have resulted in being wrongfully terminated from employer." The letter did not include any additional information explaining the basis for Dr. Kotomori's conclusion that claimant had autistic spectrum disorder; where he obtained the information that claimant had that disorder; or whether he did his own assessments to conclude claimant had autistic spectrum disorder or relied on third-party information to render that conclusion.

13. Claimant also submitted two reports from EXCEED, a division of Valley Resource Center and third party vendor to the Department of Rehabilitation Services. The first report was a single page handwritten document regarding a conference that took place on March 17, 2016, with Ishmiel F. of EXCEED and someone from the Department of Rehabilitation addressing claimant's Situational Assessment (SA) Outcome. The document stated as follows:

Based on SA outcome, [claimant] is recommended for a Group Placement in Supported Employment, with Long-Term Job Coach Support. To qualify for this type of placement, he will be required to apply for and receive Inland Regional Center services. [Claimant] is also recommended for Personal, Vocational, and Social Adjustment services, in addition to Volunteer Work.

The second report from EXCEED was the Situational Assessment Report dated February 2016, for services given from January 28, 2016, to February 9, 2016, by EXCEED.

This second report stated that the EXCEED employee responsible for the report was Joann Taitano. The report stated that claimant had been referred to EXCEED by the Department of Rehabilitation (DOR) for evaluation of his work related capabilities, habits, skills, ability to follow directions and other functional areas to determine if he could benefit from DOR services for an employment outcome. The report evaluated claimant's performance of work at the Walgreens and Lowe's distribution centers during the time of his evaluation. The report concluded that claimant "is recommended for a Group Placement in Supported Employment . . . [t]his will require acceptance to Inland Regional Center."

14. Claimant also provided documents from another school district regarding that provided special education services to him. A Multidisciplinary Team Report dated October 29, 2013, included a comprehensive re-evaluation of claimant's eligibility for special education services. The report was signed by Casey Smith, the school psychologist; provided a history of claimant's special education services; noted that claimant was initially evaluated for special education services in 2004 by a different school district; and met special education eligibility criteria under Speech and Language Impairment. The report further stated that a mental health referral was made and in November 2005 "the Diagnostic Center completed an assessment to determine a correct diagnosis for [claimant] . . . [i]t was determined that Asperger classification was not appropriate at the time and eligibility was changed to Emotional Disturbance." The report further stated that at his triennial reviews for special education services in October 2007 and in December 2010, claimant met special education eligibility criteria under Emotional Disturbance.

The report further provided results from evaluations of claimant conducted by Casey Smith when claimant was 17 years old, including the Behavioral Assessment System for Children-2 (BASC-2). The report summarized the findings and stated that overall claimant continued to struggle in many areas regarding his social-emotional status, and attention difficulties were noted throughout the assessment process and concerns include:



Hyperactivity, Aggression, Conduct Problems, Anxiety, Depression, Attention Problems, Learning Problems, Atypical Withdrawal, Adaptability, Leadership, Study Skills, and Functional Communication.

The report concluded that claimant no longer met the eligibility requirements for special education services under a diagnosis of Emotional Disturbance, but rather he does meet eligibility requirements for special education services under a diagnosis of Specific Learning Disability and Autism. The report further stated as follows:

He has a long documented history of behaviors associated demonstrated [sic] by students with Autism. Additionally, the BASC-2 indicated concerns in Withdrawal, Adaptability, and Functional Communication which are all common areas of concerns with students demonstrating Autistic-Like Behaviors.

#### TESTIMONY OF SANDRA BROOKS, PH.D.

15. Dr. Sandra Brooks received her Ph.D. in Clinical Psychology from Loma Linda University in 2006. Dr. Brooks has worked as a staff psychologist at IRC for about 10 years. Her duties in the position of staff psychologist include reviewing records and conducting evaluations to assist the multidisciplinary team to determine if potential clients are eligible for service. During her employment at IRC, Dr. Brooks has reviewed the records of over one thousand clients or potential clients to determine their eligibility for services with IRC.

16. Dr. Brooks reviewed claimant's records in this matter but did not meet with claimant in person for his assessment. As part of her review of claimant's records, Dr. Brooks reviewed Dr. Chang's evaluation, Dr. Kotomori's letter, the EXCEED reports, and all the school records provided by claimant. Dr. Brooks opined that these materials do not establish that claimant is eligible for services from IRC on the basis of autism. Specifically,

Dr. Brooks testified that autism is a developmental disability with typical symptoms including repetitive behaviors, sensory issues, and communication problems, and is diagnosed through use of criteria as outlined in the DSM-5.

17. Dr. Brooks stated that there is no indication that claimant has symptoms of autism or needs to be tested for autism. Dr. Brooks stated that Dr. Chang's evaluation of claimant in 2005 indicated that claimant had good reciprocal response to interaction, was interested in interacting with others, and tended to annoy other people. Dr. Brooks stated that claimant had tantrums, but did not demonstrate autistic behaviors. While claimant had a multitude of other diagnoses, including ADHD and Oppositional and Defiant Disorder, his evaluation by Dr. Chang did not warrant a diagnosis of Asperger's Syndrome or any other autism disorder. She noted that claimant did not demonstrate a deficit in the areas of social and emotional interaction and did not demonstrate social or emotional indifference, as would be typical with a diagnosis of autism. Instead, claimant wanted to be included in social activities, and the social problems he experienced were the result of claimant's inability to control his impulses rather than from autism.

18. Also, Dr. Brooks stated that claimant has a long history of mental health issues and her review of all of the documents provided demonstrated that claimant had a diagnosis of emotional disturbance, which can manifest in social awkwardness like claimant has experienced. Dr. Brooks noted that her review of the assessment conducted by Casey Smith in 2013 showed that Ms. Smith did not conduct any testing specifically directed at diagnosing autism. Instead, Ms. Smith concluded that claimant met the eligibility requirements for special education services because he demonstrated "Autistic-Like" behaviors. Dr. Brooks emphasized that eligibility for special education services under a diagnosis of autism has a "different and more-loose standard" than that required by the Lanterman Act. Specifically, school districts use different criteria to determine eligibility for special education services than that utilized by the Lanterman Act. Under the school

district criteria, if a child demonstrates some socially awkward behavior it may be enough to qualify for special education services, but such autistic-like behavior is insufficient to qualify for services under the Lanterman Act.

19. Dr. Brooks further testified that the EXCEED reports provided no evidence that claimant was ever tested for autism, but rather simply evaluated his work skills. She also testified that none of the other documents she reviewed provide any indication that claimant was autistic. Additionally, she noted that the documents did provide evidence that claimant liked attending school, played water polo, got along with his teachers and had friends. He had positive relationships with his family and wanted to go to college. During his sentence completion tests he understood the questions and demonstrated insight, a quality that is not seen in a person with autism. The documents showed that claimant demonstrates appropriate social awareness and has a good level of social interest, qualities that are absent or seriously lacking in a person with autism. Dr. Brooks stated that none of the documents provided by claimant show that he was tested for autism. The single letter from Dr. Kotomori provided no evidence of testing for autism, but merely a conclusory sentence that claimant was being treated for Autism Spectrum Disorder.

#### TESTIMONY OF CLAIMANT'S MOTHER

20. Claimant's mother testified that claimant was fired from his job in October 2015. She stated that she requested the January 27, 2016, letter from Dr. Kotomori so that claimant could receive unemployment benefits. She further stated that claimant has been receiving psychiatric treatment from Dr. Kotomori since 2014, but that claimant had also previously received treatment from Dr. Kotomori for about a year when claimant was nine years old.

21. Claimant's mother stated that claimant sought the assistance of DOR to obtain employment. Accordingly, DOR utilized the assistance of a third-party vendor

named EXCEED to evaluate claimant's employment ability. Claimant's mother stated that the reason she sought eligibility for claimant for IRC services was because EXCEED told claimant that he must first obtain eligibility from IRC in order to receive a group placement for Supported Employment, with long-term job coach support. Claimant's mother is frustrated because she only wants her son to obtain secure employment and believes that IRC's refusal to evaluate her son for eligibility is preventing him from doing so. She stated that she believes that the IRC "has not given my son the opportunity to go out and work." Claimant's mother stated that DOR informed her that without claimant's authorization from IRC to receive services, the DOR cannot ensure that her son will work more than 90 days.

22. Claimant's mother believes that IRC must evaluate her son for eligibility under a diagnosis of autism instead of simply relying on a 2005 evaluation and documents provided.

#### TESTIMONY OF CLAIMANT

23. Claimant is currently 19 years old. His testimony was articulate, and he was passionate about his situation. He stated that he believes he was treated unfairly and that "as much as their paperwork says that they don't feel like I am autistic, I think they really don't understand what I went through in my life."

24. Claimant stated that he feels like he should be able to work, and that he enjoyed working. He wants very much to succeed in a work environment and does not want to take a hand-out from anyone. He stated that he was terminated from his last job because of his disabilities. He has a hard time fitting in socially and struggles to make friends. He was a loner in high school and feared rejection. He currently does not really have friends, but does have some acquaintances. He wants to have friends, and he wants to be social and "hang-out" with others. He hopes someday to have a girlfriend and to get married. While he does not have a problem being around people, he doesn't like being

judged and rejected.

25. Claimant stated that he can take care of his daily needs, like showering, but he does not pay bills because his parents take care of that. He does not believe that he is capable of paying bills, but someday he would like to learn.

## THE PARTIES' ARGUMENTS

26. IRC argued that the records provided for their review failed to establish that claimant has any diagnosis that would qualify him for services from IRC. IRC further asserted that it is not required to test claimant for autism to determine if IRC determines that claimant is not eligible for services based on the records provided.

27. Claimant's mother disagreed with IRC's position that claimant has no indicators to show that he is autistic, and she believes that IRC should test claimant to determine if he has autism and is eligible for services.

## LEGAL CONCLUSIONS

### THE BURDEN AND STANDARD OF PROOF

1. In a proceeding to determine whether an individual is eligible for regional center services, the burden of proof is on the claimant to establish that he or she has a qualifying diagnosis. The standard of proof required is preponderance of the evidence. (Evid. Code, § 115.)

2. A preponderance of the evidence means that the evidence on one side outweighs or is more than the evidence on the other side, not necessarily in number of witnesses or quantity, but in its persuasive effect on those to whom it is addressed. (*People ex rel. Brown v. Tri-Union Seafoods, LLC* (2009) 171 Cal.App.4th 1549, 1567.)

### THE LANTERMAN ACT

3. Pursuant to the Lanterman Act (Welf. & Inst. Code, § 4500, et seq.), the State

of California accepts responsibility for *persons* with developmental disabilities. The purpose of the Act is to rectify the problem of inadequate treatment and services for the developmentally disabled and to enable developmentally disabled individuals to lead independent and productive lives in the least restrictive setting possible. (Welf. & Inst. Code, §§ 4501, 4502; *Association for Retarded Citizens v. Department of Developmental Services* (1985) 38 Cal.3d 384.) The Lanterman Act is a remedial statute; as such it must be interpreted broadly. (*California State Restaurant Association v. Whitlow* (1976) 58 Cal.App.3d 340, 347.)

4. An applicant is eligible for services under the Lanterman Act if he or she can establish that he or she is suffering from a substantial disability that is attributable to intellectual disability, *cerebral* palsy, epilepsy, autism, or what is referred to as the fifth category – a disabling condition closely related to intellectual disability or requiring treatment similar to that required for intellectually disabled individuals. (Welf. & Inst. Code, § 4512, subd. (a).) A qualifying condition must also start before the age 18 and be expected to continue indefinitely. (Welf. & Inst. Code, § 4512.)

5. California Code of Regulations, title 17, section 54000, also defines “developmental disability” and the nature of the disability that must be present before an individual is found *eligible* for regional center services. It states:

- (a) Developmental Disability means a disability that is attributable to mental retardation<sup>1</sup>, cerebral palsy, epilepsy, autism, or disabling conditions found to be closely related to mental retardation or to require treatment similar to that required for individuals with mental retardation.

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<sup>1</sup> Although the Lanterman Act has been amended to eliminate the term “mental retardation” and replace it with “intellectual disability,” the California Code of Regulations has not been amended to reflect the currently used terms.

(b) The Developmental Disability shall:

- (1) Originate before age eighteen;
- (2) Be likely to continue indefinitely;
- (3) Constitute a substantial disability for the individual as defined in the article.

(c) Developmental Disability shall not include handicapping conditions that are:

- (1) Solely psychiatric disorders where there is impaired intellectual or social functioning which originated as a result of the psychiatric disorder or treatment given for such a disorder. Such psychiatric disorders include psycho-social deprivation and/or psychosis, severe neurosis or personality disorders even where social and intellectual functioning have become seriously impaired as an integral manifestation of the disorder.
- (2) Solely learning disabilities. A learning disability is a condition which manifests as a significant discrepancy between estimated cognitive potential and actual level of educational performance and which is not a result of generalized mental retardation, educational or psycho-social deprivation, psychiatric disorder, or sensory loss.
- (3) Solely physical in nature. These conditions include congenital anomalies or conditions acquired through disease, accident, or faulty development which are not associated with a neurological impairment that results in a need for treatment similar to that required for mental retardation."

6. When an individual is found to have a developmental disability as defined under the Lanterman Act, the State of California, through the regional center, accepts responsibility for providing services and supports to that person to support his or her integration into the mainstream life of the community. (Welf. & Inst. Code, § 4501.)

7. "Services and supports" for a person with a developmental disability can include diagnosis and evaluation. (Welf. & Inst. Code, § 4512, subd. (b).)

8. A regional center is required to perform initial intake and assessment services for "any person believed to have a developmental disability." (Welf. & Inst. Code, § 4642.) "Assessment may include collection and review of available historical diagnostic data, provision or procurement of necessary tests and evaluations, and summarization of developmental levels and service needs . . . ." (Welf. & Inst. Code, § 4643, subd. (a).) To determine if an individual has a qualifying developmental disability, "the regional center may consider evaluations and tests . . . that have been performed by, and are available from, other sources." (Welf. & Inst. Code, § 4643, subd. (b).)

9. California Code of Regulations, title 5, section 3030, provides the eligibility criteria for special education services required under the California Education Code. The criteria for special education eligibility are not the same as the eligibility criteria for regional center services found in the Lanterman Act. A school providing services to a student under an autism disability is insufficient to establish eligibility for regional center services. Regional centers are governed by California Code of Regulations, Title 17. Title 17 eligibility requirements for services are much more stringent than those of Title 5.

## EVALUATION

10. Claimant's mother asked for a Fair Hearing to obtain an assessment of claimant. She believed claimant could be eligible for regional center services because he exhibited autistic-like behaviors and because he qualified for special education services from his school district. She also believed that because the DOR referred her to IRC for evaluation that claimant is entitled to have a full assessment performed, rather than a review of records. Claimant's mother expressed her genuine desire to have a full assessment performed so that claimant can have an opportunity to obtain job coaching and full employment. Her motives are sincere and commendable.

11. The information contained in claimant's records, however, does not support a reasonable belief that claimant has a developmental disability as defined by the



Lanterman Act that would trigger IRC's obligation to provide or procure a further assessment of claimant. Claimant's school records show that claimant suffers from mental health disorders that affect his behavior and academic performance, and these disorders do not qualify claimant for regional center services. Although Dr. Kotomori stated that claimant is being treated for Autism Spectrum Disorder, he provided no testing or other information from which a diagnosis of Autism Spectrum Disorder could be made. His opinion is, thus, given little weight.

12. Eligibility for special education services does not determine eligibility for regional center services. The Lanterman Act and the applicable regulations specify the criteria an individual must meet in order to qualify for regional center services. The regional center is statutorily required to use different criteria for eligibility than a school district. Accordingly, Casey Smith's conclusion that claimant was eligible for special education services because claimant had a history of autism-like behaviors is also given little weight, particularly because there was no indication that Casey Smith conducted any testing to determine a diagnosis of autism.

13. Claimant's mother was credible, her testimony heartfelt, and her frustration palpable. She is clearly motivated by her desire to help her child and to obtain the services she believes are necessary to allow him to function in the world and obtain long-term employment; she undoubtedly has her child's best interest at heart. However, the preponderance of the evidence did not establish that claimant is eligible to receive a further assessment or other services under the Lanterman Act based on diagnosis of autism spectrum disorder. The weight of the evidence established that claimant does not have a condition that makes him eligible for regional center services.

## ORDER

Claimant's appeal from IRC's determination that he is not eligible for regional center services and supports is denied.

Claimant's appeal from IRC's determination that it will not provide intake services, including performing an assessment, is denied.

DATED: May 25, 2016

\_\_\_\_\_/s /\_\_\_\_\_

DEBRA D. NYE-PERKINS

Administrative Law Judge

Office of Administrative Hearings

## 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 ninety days.