

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

CLAIMANT,

vs.

NORTH LOS ANGELES COUNTY REGIONAL
CENTER,

Service Agency.

OAH No. 2018020811

DECISION

Chantal M. Sampogna, Administrative Law Judge, Office of Administrative Hearings, State of California, heard this matter on March 27, 2018, in Lancaster, California.

Stella Dorian, Fair Hearing Representative, represented North Los Angeles County Regional Center (NLACRC or Service Agency).

Claimant's legal guardian represented claimant, who was not present.¹

Oral and documentary evidence was received. The record was held open until April 7, 2018, for claimant to submit additional documentary evidence, a letter from his teacher. The record remained open until April 14, 2018, for Service Agency to respond to the additional evidence. By April 7, 2018, claimant submitted no additional evidence. On

¹ Titles are used to protect the family's privacy.

April 13, 2018, Service Agency submitted a Response to Additional Record Provided by the Claimant (marked as exhibit 18) which is not admitted into evidence.²

ISSUE

Whether claimant is eligible for services under the Lanterman Developmental Disabilities Services Act (Lanterman Act) (Welf. & Inst. Code, § 4500 et seq.).³

EVIDENCE RELIED UPON

Documents: Service Agency's exhibits 1 through 17; Claimant's exhibit A.

Testimony: Dr. Sandi Fischer, Licensed Clinical Psychologist/Service Agency Co-Supervisor of Clinical and Intake Departments.

FACTUAL FINDINGS

1. Claimant is a nine-year-old boy, who resides with his legal guardian (maternal step-grandmother), seven-year-old half-sister, and cousin. Based on claimant's challenges with attention, learning, and behaviors, claimant seeks a finding

² The record was held open for claimant to submit a new document, a letter from his teacher. Claimant did not submit this letter. Exhibit 18 is the Service Agency's response to claimant's exhibit A, claimant's 2018 Individualized Education Program, which was entered into evidence at the hearing. The Service Agency had an opportunity to respond to exhibit A at the time of hearing, and did not request additional time to respond to exhibit A. For these reasons, Service Agency's exhibit 18 is excluded from evidence.

³ All further statutory references are to the Welfare and Institutions Code, unless otherwise specified.

that he has a developmental disability as defined in the Lanterman Act under the eligibility categories of Autism Spectrum Disorder (ASD), Intellectual Disability (ID), or due to a disabling condition closely related to an intellectual disability or requiring treatment similar to that required for an intellectual disability (fifth category). (§ 4512, subd. (a).)

2. The Service Agency determined that claimant is not eligible under the Lanterman Act based on the results of visual and written assessments, and the lack of any qualifying conditions set forth in claimant's educational, medical, and psychological records, as described below.

3. On December 21, 2017, the Service Agency issued a Notice of Proposed Action and accompanying letter (NOPA) which informed claimant that he was not eligible for services under the Lanterman Act. On February 13, 2018, claimant filed a Fair Hearing Request.

4. At the direction of the Department of Children and Family Services, claimant and his younger sister were placed with their maternal grandfather and guardian when claimant was two and one-half years old. Claimant's mother was approximately 19-years-old at the time, and could no longer care for claimant due to her challenges with alcohol and substance abuse, bipolar disorder, anxiety, and borderline schizophrenia.⁴ The legal guardianship was established in 2011. When claimant was first placed with the guardian, he had significant speech delays and a limited vocabulary, knowing only five words. After receiving approximately six months of speech therapy from the Regional Center, claimant's speech had significantly improved. Throughout his life, claimant has presented with behavioral problems in the areas of

⁴ Little is known about claimant's father other than that he was approximately 37-years-old at the time claimant was born and he was a registered sex offender.

hyperactivity, aggression, conduct problems, and attention problems at home and at school. During the 2017-2018 academic year, claimant began therapy and began taking medication for his Attention Deficit Hyperactivity Disorder (ADHD) (see Factual Finding 5); as a result, claimant's behaviors improved, though the Adderall made it harder for claimant to fall asleep. Claimant has friends at school, enjoys electronics and watching YouTube, and would like to be a scientist. In February 2017, claimant's maternal grandfather passed away. This was a significant emotional loss for claimant and the family. As well, it has resulted in claimant recently losing his Medi-Cal coverage and the termination of claimant's therapy and medical coverage for Adderall. Margaret Swaine, M.D., conducted a medical assessment of claimant. She noted that at one year of age, claimant had stopped breathing for an unknown period of time, which could explain some of the many neuropsychological difficulties he now has. Dr. Swaine confirmed claimant has no indication of a substantially handicapping cerebral palsy or epilepsy.

CLAIMANT ASSESSMENTS AND RECORDS

5. Since January 2016, claimant has had the following assessments: Palmdale School District Psycho-Educational Assessment Report (Lisa Casas, M.S., Nationally Certified School Psychologist (NCSP), January 15, 2016); Child/Adolescent Full Assessment (Child and Family Guidance Clinic (CFGC), Patricia Rubalcaba, M.S.W., November 19, 2016); Antelope Valley Special Education Local Plan Area's Individualized Education Program (IEP) (January 24, 2017, and February 2, 2018); Screening of Cognitive and Affective Functioning and ADHD Screening (Linda C. Gilbert, Ph.D., May 5, 2017); Psychiatric Evaluation (Michelle Pietryga, M.D., May 9, 2017); NLACRC Social Assessment (Lisa A. Guzman, M.A., November 8, 2017); Service Agency Medical Summary (November 14, 2017); and Psychological Evaluation (Brigitte Travis-Griffin, Psy.D., December 11, 2017). Based on these assessments, claimant has been diagnosed with ADHD, Enuresis, Asthma, and a specific learning disorder with impairment in

reading, mathematics, and written expression. These assessments consistently identified the behaviors and diagnostic results described below.

Attention and Educational Challenges

A. Claimant has processing deficits in areas of attention, sensory-motor processing, visual processing, auditory memory processing, association, conceptualization and written expression. Claimant struggles with his ability to focus his attention, can be hyperactive, and has difficulty sitting still, following directions, and completing his work. He qualifies for special education services as an individual with a specific learning disability, and requires specialized instruction in English Language Arts and Mathematics to access the general education curriculum. Claimant's guardian has agreed to all parts of claimant's current IEP. Claimant was held back a year in kindergarten, and his reading fluency and comprehension at that time were very low. However, claimant currently communicates verbally in complete sentences, displays a good vocabulary, and can read and comprehend above grade level. Claimant continues to be most challenged with writing expression.

Behaviors and Social Relationships

B. Claimant exhibits some physical aggression, impulsivity, argumentativeness, and noncompliance at home and at school. His anger outbursts, often in response to being told something he does not want to hear, occur approximately two to three times per week and include kicking, slamming doors, and screaming. Claimant has a history of having no fear of danger; for example, he will speak to strangers and approach animals without hesitation, and at five years of age began setting fires (though claimant stopped setting fires because he now understands that a possible consequence is that people or things could get burned). Recently, claimant has been having conversations with imaginary people, refers to demons, and has stated he

expects to hear voices. Claimant is respectful towards adults at school and he holds fair relationships with his peers; claimant has a friend he plays soccer with at recess, and two children on his block with whom he plays. Claimant initiates contact with children and responds to contact initiated by other children, though at times he is aggressive with his peers and sister. Claimant plays with toys for their intended purpose, he maintains good eye contact during social interactions, and he has social emotional reciprocity, for example he asks the guardian what is wrong when she is upset and is able to provide her comfort. Claimant scored within the average range on Auditory Cohesion scale, demonstrating his ability to understand jokes and make inferences from abstractions.

Self-care, Sensory Issues, and Repetitive and Restrictive Behaviors

C. Claimant is responsible for folding his clothes, basic meal preparation, and bathing himself. Claimant has a heightened sensitivity to smells, such as bananas and grass, and will smell most things in his environment. He also has a heightened sensitivity to touch some textures. Claimant seeks out affectionate touch and will arbitrarily walk up to strangers and hug them; he avoids the feeling of water and soap on his skin, which limits his ability to care for his hygiene, as he avoids bathing, shampooing, and brushing his teeth. Claimant is a picky eater, but also overeats, having trouble with food satiation. Claimant is not bothered by noises, touch, or crowds, and does not display unusual motor movements. Claimant demonstrates some repetitive behaviors and unusual mannerisms such as facial tics and grimaces, clicking his tongue, walking on tip-toe, spinning in circles, crawling on the floor and under tables, and repeating noises. In conversations, claimant will repeat questions and inappropriate words and phrases, such as "butt." While he does better with routines, claimant can adapt to changes in routines. Claimant has poor sleeping habits, does not sleep more than five hours per night, wets his bed on most nights, and has developed the habit of rocking himself to sleep.

Diagnostic Assessments and Diagnoses

D. On January 15, 2016, Lisa Casas, M.S., NCSP, conducted a psycho-educational assessment of claimant to determine claimant's overall levels of functioning to assist in his educational placement and programming. Ms. Casas reviewed the assessments and records to date. Ms. Casas learned from the guardian and claimant's teacher that claimant is very creative; he has difficulty listening, paying attention, and following directions, but is respectful towards adults and able to hold fair peer relationships. Claimant also has good verbal language skills and does well with oral responses, though he had not mastered letter, sound, and number recognition. During the assessment, claimant followed directions and navigated the computer program independently, had good motivation for successful completion of testing, but was fidgety, easily distracted, and needed frequent reminders to stay on task. Ms. Casas administered the following assessments: Das-Naglieri Cognitive Assessment System; Woodcock-Johnson IV Tests of Achievement; Behavior Assessment System for Children, Second Edition; and additional learning assessments. Ms. Casas had concerns that claimant's test results may have been negatively affected by claimant's inattentiveness. Claimant scored very low and below average in reading, math, and writing. Based on her findings, Ms. Casas found claimant eligible for special education services as an individual with a specific learning disability.

E. The Palmdale Unified School District referred claimant to the CFGC for a Child/Adolescent Full Assessment based on claimant's symptoms and behaviors. On November 3, 2016, Patricia Rubalcaba, M.S.W., conducted this assessment. Ms. Rubalcaba diagnosed claimant with ADHD, combined presentation; Disruptive, Impulse-Control, and Conduct Disorder (subsequent assessments removed this disorder as a diagnosis); and Enuresis.

F. Virginia Crosby, MFTI from CFGC, referred claimant to Linda C. Gilbert, Ph.D., for an assessment of his cognitive and affective functioning. In March and April, 2017, Dr. Gilbert, conducted a Screening of Cognitive and Affective Functioning and ADHD Screening of claimant and administered the following tests: Autism Spectrum Rating Scales, parent version (ASRS); BECK Youth Inventories, Second Edition (BECK2); Wechsler Abbreviated Scale of Intelligence, Second Edition (WASI-II); and Rorschach (attempted, but not completed, see footnote 5). Dr. Gilbert also considered the assessments and records to date. Claimant's behavior, limited attention, and answers during these assessments indicated the test scores have limited validity.⁵ Dr. Gilbert noted claimant's significant atypical language and sensory sensitivities, including claimant's sensitivity to textures and smells, his arbitrary affectionateness with strangers,

⁵ Dr. Gilbert believed the test results have limited validity because of claimant's inability to maintain his attention and limit his impulsivity during the assessments. When claimant completed the BECK2 assessment, claimant provided the same answers to multiple questions, showing limited answer variation; if these answers were valid, it would suggest claimant experiences anxiety, depression, and anger, which are not consistent with his history. Similarly, when completing the WASI-II, claimant struggled with his ability to pay attention and restrain his impulses. During the Rorschach test, claimant repeatedly provided silly answers such as "boobs" or "butt," and for these reasons this test could not be completed. Throughout the testing, claimant asked Dr. Gilbert for hugs. As testing progressed, claimant became more distracted, and by the third testing session it was impossible to direct him back to task. Though claimant's Full-Scale Intellectual Quotient score was in the borderline to low average range, Dr. Gilbert believed if claimant was able to increase his ability to pay attention and restrain his impulses, his test scores may show he rates at a higher intelligence.

his repetition of words, such as “butt, butt, butt,” and that he clicks his tongue repeatedly when excited. Despite these behaviors, Dr. Gilbert concluded that claimant is probably not a child with ASD because guardian reported that he socializes well with peers, and he lacks stereotypic or rigid behaviors, both of which are necessary for the diagnosis of ASD Summary. Claimant’s very small size and shape of his head, and his severe problems with attention and impulsivity, are highly suggestive of genetic or other developmental disorders. Dr. Gilbert recommended claimant receive assessments for, and assistance with, the following: neurological disorder; Fetal Alcohol Syndrome; Tourette’s Disorder; sleep apnea; reactive attachment disorder; occupational therapy; medication for ADHD; and additional assistance with his sleep and Enuresis, because addressing these issues can help his ADHD.

G. Brigitte Griffin, Psy.D., conducted a psychological evaluation of claimant on December 11, 2017 to determine claimant’s levels of cognitive, adaptive, and social functioning. Dr. Griffin administered the following tests: Wechsler Intelligence Scale for Children, Fifth Edition (WISC-V); Autism Diagnostic Observation Schedule, Second Edition (ADOS-2) – Module 3; Autism Diagnostic Interview (guardian), Revised (ADI-R); Adaptive Behavior Assessment System (guardian), Third Edition (ABAS-3); and Clinical Interview (guardian). Claimant had the following diagnostic results: Full-Scale Intellectual Quotient (FSIQ), borderline range 76; ADOS-2 score social affect 7, and restricted and repetitive behaviors score 0, with a total social functioning and communication score of 7 (cut-off 9) ⁶; ADI-R qualitative abnormalities in reciprocal social interactions 6 (cut-off

⁶ During his ADOS-2, Module 3 assessment, claimant did not exhibit any stereotyped or idiosyncratic use of words or phrases, unusual sensory preoccupations, or stereotyped motor mannerisms. Claimant’s communication skills did not include any neologisms, idiosyncratic language, or echoed speech. Claimant used a range of

10), verbal communication 2 (cut-off 8), nonverbal communication 0 (cut-off 7), restricted, repetitive, and stereotyped patterns of behavior 2 (cut-off 3), abnormalities of development evident at or before 36 months 1 (cut-off 1); ABAS-3 low average scores on functional academics, communication, social composite, and adaptive functioning; and on the ADI-R, guardian reported behaviors identified in Factual Finding 5A-5C. Dr. Griffin made the following diagnoses: Borderline Intellectual Disorder; ADHD, combined presentation, moderate (untreated); Enuresis. Dr. Griffin recommended claimant's IEP team consider occupational therapy, that claimant restart psychiatric health services, and that he have further medical assessments to rule out Fetal Alcohol Syndrome, sensory dysregulation disorder, Tourette's disorder, and other medical impediments to lack of food satiation.

H. On December 20, 2017, the Service Agency's intake eligibility team assessed claimant's eligibility and determined he was not eligible for Regional Center services. The team conducted a redetermination on March 7, 2018, after reviewing subsequent assessments, and again determined claimant was not eligible for services. Dr. Sandi Fischer, Licensed Clinical Psychologist, and Service Agency Co-Supervisor of Clinical and Intake Departments, was part of the eligibility team and familiar with

gestures and demonstrated he can converse in a manner that leads to an ongoing dialogue. Claimant can be verbose and sometimes off-topic, and at times perseverated on questions, and he did not consistently spontaneously describe in an age-appropriate comprehensive fashion routine events. Instead, claimant's responses were often dependent on specific probes from the examiner, and he could not maintain more than two cycles of to-and-from conversation. Though claimant has some deficits in social functioning and communication, Dr. Griffin determined he does not have ASD in part because he demonstrated no restricted or repetitive behaviors.

claimant's case. She testified that in addition to the assessments, the intake team relied on the following information when determining claimant is not eligible for services under the categories of ASD, ID, or fifth category: claimant has no social withdrawal or isolation, and socializes well with peers; his educational needs are met by 240 hours per week of special education services (see Factual Finding 6); after he was placed with guardian, with just six months of services he made marked improvements in his speech, and is now reading above grade level; he has no restricted or repetitive behaviors, or rigidity; he can independently decide to change his behavior based on understood consequences, for example his decision to stop setting fires; and he understands the communication nuances of humor. Dr. Fischer acknowledges claimant's significant sensory sensitivities, but concluded that those, alone, do make an individual eligible for services. Claimant's sensory sensitivities are not connected to an underlying eligibility category of ASD, ID, or fifth category. Finally, Dr. Fischer explained that because claimant's behaviors and symptoms related to his untreated ADHD interfered with obtaining valid assessment results, claimant should be reassessed for eligibility after receiving treatment for his ADHD.

CLAIMANT'S EVIDENCE

6. The guardian did not testify. The guardian admitted into evidence claimant's February 2, 2018 IEP which she signed. This IEP reported that claimant is a fluent reader, reading at a fifth grade level. He receives 240 minutes per week of special education service in math and language arts, and writing is still an area of weakness. The 2018 IEP noted that claimant became aggressive after taking the Adderall, so the medication was stopped after four days. The IEP does not describe claimant as having any impairments in reciprocal social communication, social interaction, and restricted, repetitive patterns of behavior, interest, or activities that would support an ASD diagnosis.

DIAGNOSTIC STATISTICAL MANUAL OF MENTAL DISORDERS (DSM-V)
DEFINITIONS OF AUTISM SPECTRUM DISORDER AND INTELLECTUAL DISABILITY

Autism Spectrum Disorder

7. The DSM-V defines ASD as having the following four essential features. First, an individual must have persistent impairment in reciprocal social communication and social interaction (Criterion A), as manifested either currently or historically by all of the following: (1) deficits in social-emotional reciprocity, (2) deficits in nonverbal communication behaviors used for social interaction, and (3) deficits in developing, maintaining, and understanding relationships. Second, the individual must have restricted, repetitive patterns of behavior, interests or activities (Criterion B), as manifested by at least two of the following: (1) stereotyped or repetitive motor movement, use of objects or speech, (2) insistence on sameness, inflexible adherence to routines, or ritualized patterns of verbal or nonverbal behavior, (3) highly restricted, fixated interests that are abnormal in intensity or focus, and/or (4) hyper- or hyporeactivity to sensory input or unusual interest in sensory aspects of the environment. These symptoms must be present in early childhood and limit or impair everyday functioning. (Criterion C and D).

Intellectual Disability

8. The DSM-V provides that the following three diagnostic criteria must be met to be diagnosed with ID:

9. An individual must have deficits in intellectual functions, such as reasoning, problem solving, planning, abstract thinking, judgment, academic learning, and learning from experience, confirmed by both clinical assessment and individualized, standardized intelligence testing (Criterion A). Individuals with ID have FSIQ scores between of 65 to 75, including a five point margin for measurement error. The DSM-V

cautions that IQ tests must be interpreted in conjunction with considerations of adaptive function. The DSM-V explains that a person with an Intellectual Quotient (IQ) score above 70 may “have such severe adaptive behavior problems in social judgment, social understanding, and other areas of adaptive functioning that the person’s actual functioning is comparable to that of individuals with a lower IQ score.” (Ex. 15, at p. 8.)

10. Individuals with ID have deficits in adaptive functioning that result in a failure to meet developmental and socio-cultural standards for personal independence and social responsibility, which, without ongoing support, limit functioning in one or more activities of daily life, such as communication, social participation, and independent living, across multiple environments, such as home, school, work, and community (Criterion B). This criterion is met when at least one domain of adaptive functioning – conceptual, social, or practical – is sufficiently impaired such that “ongoing support is needed in order for the person to perform adequately in one or more life settings at school, at work, at home, or in the community.” (*Id.* at p. 9.) The levels of severity of ID are defined on the basis of adaptive functioning, and not IQ scores, because the adaptive functioning determines the level of supports required.

11. Individuals with ID must experience the onset of these symptoms during the developmental period (Criterion C).

FIFTH CATEGORY

12. The Lanterman Act provides for assistance to individuals with “disabling conditions found to be closely related to mental retardation or to require treatment similar to that required for mentally retarded individuals,” under the fifth category, but does “not include other handicapping conditions that are solely physical in nature.” (Welf. & Inst. Code § 4512, subd. (a); see *Mason v. Office of Administrative Hearings* (2001) 89 Cal.App.4th 1119, 1129.) The fifth category is not defined in the DSM-V.

13. On March 16, 2002, in response to the *Mason* case, the Association of Regional Center Agencies (ARCA) approved the Guidelines for Determining 5th Category Eligibility for the California Regional Centers (Guidelines). These Guidelines list the following factors to be considered when determining eligibility under the fifth category: whether the individual functions in a manner that is similar to that of a person with mental retardation; whether the individual requires treatment similar to that required by an individual who has mental retardation; whether the individual is substantially handicapped; and whether the disability originated before the individual was 18-years-old and is it likely to continue indefinitely. In *Samantha C. v. State Department of Developmental Services* (2010) 185 Cal.App.4th 1462, the court cited with approval to the ARCA Guidelines and recommended their application to those individuals whose "general intellectual functioning is in the low borderline range of intelligence (I.Q. scores ranging from 70-74)" for fifth category eligibility. (*Id.* at p. 1477.)

LEGAL CONCLUSIONS

1. The Lanterman Act governs this case. An administrative "fair hearing" to determine the rights and obligations of the parties is available under the Lanterman Act. (§§ 4700-4716.)

2. The party asserting a claim generally has the burden of proof in administrative proceedings. (See, e.g., *Hughes v. Board of Architectural Examiners* (1998) 17 Cal.4th 763, 789, fn. 9.) In this case, claimant bears the burden of proving, by a preponderance of the evidence, that claimant is eligible for Lanterman Act services. (Evid. Code, § 115.)

3. A developmental disability is a disability that originates before an individual turns 18-years-old. This disability must be expected to continue indefinitely and must constitute a substantial disability for the individual. Developmental disabilities are limited to cerebral palsy, epilepsy, autism, an intellectual disability, or a disabling condition found

to be closely related to intellectual disability or to require treatment similar to that required for an individual with an intellectual disability. Developmental disabilities do not include other handicapping conditions that are solely physical in nature. (§ 4512, subd. (a), Cal. Code of Regs., tit. 17, § 54000.)

4. A substantial disability is the existence of significant functional limitations in three or more of the following areas of major life activities: self-care, receptive and expressive language, learning, mobility, self-direction, capacity for independent living, and economic self-sufficiency. (§ 4512, subd. (j); Cal. Code Regs., tit. 17, § 54001, subd. (a).)

5. As defined under the Lanterman Act, developmental disability does not include the following: 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; solely learning disabilities which manifest 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; and disabilities that are solely physical in nature. (Cal. Code of Regs., tit. 17, § 54000, subd. (c).)

6. A. Claimant does not have cerebral palsy or epilepsy.

B. The evidence did not demonstrate that claimant has a persistent impairment in reciprocal social communication and social interaction, and the evidence did not demonstrate that claimant has restricted repetitive patterns of behavior, interest, or activities. Claimant is not eligible for Lanterman Act services under the category of ASD.

C. Claimant's standardized intelligence testing results show claimant's FSIQ is 76, above that which would identify someone as having an intellectual disability (70), even when accounting for the five-point margin for measurement error. Claimant did not demonstrate such severe adaptive behavior problems in social judgment, social understanding, and other areas of adaptive functioning which might show his actual

functioning is comparable to that of an individual with a lower FSIQ score. In addition, the validity of claimant's test results is questionable because claimant's untreated ADHD interfered with his assessments and likely lowered his scores. Claimant has borderline intellectual functioning and is not eligible for Lanterman Act services under the category of intellectual disability.

D. The evidence did not demonstrate that claimant functions in a manner that is similar to that of a person with an intellectual disability or requires treatment similar to that required by an individual who has an intellectual disability. Claimant's adaptive functioning results do not show that he has failed to meet developmental and socio-culture standards for personal independence and social responsibility. Claimant is not eligible for services under the fifth category.

E. Claimant did not establish he is eligible for services under the Lanterman Act. Claimant's attention related deficits and behavioral challenges, and his specific learning disabilities in reading, writing, and math, are psychiatric and learning disabilities and are not developmental disabilities. Claimant's sensitivity to smells and touch do not qualify as a developmental disability. Claimant is not eligible for services under the Lanterman Act because he does not have cerebral palsy, epilepsy, ASD, or intellectual disability, and is not eligible under the fifth category. (Factual Findings 4-13.)

F. Claimant did not establish that he has a substantial disability. Claimant's most pronounced and limiting symptoms are related to attention deficits and specific learning disabilities, disabilities for which he receives special education services, and which do not make him eligible for services under the Lanterman Act. Though claimant demonstrates at times significant behavioral challenges and sensory sensitivity, these behaviors do not pose significant functional limitations on three or more of the major life activities identified in section 4512, subdivision (j). (Factual Finding 4-13.)

G. For the foregoing reasons, claimant is not eligible for services under the Lanterman Act.

ORDER

Claimant is not eligible for services under the Lanterman Act. Claimant's appeal is denied.

DATED:

CHANTAL M. SAMPOGNA
Administrative Law Judge
Office of Administrative Hearings

NOTICE

This is the final administrative decision in this matter. Each party is bound by this decision. An appeal from the decision must be made to a court of competent jurisdiction within 90 days of the receipt of this decision. (Welf. & Inst. Code, § 4712.5, subd. (a).)