

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

In the Matter of:

CLAIMANT

and

INLAND REGIONAL CENTER, Service Agency.

DDS No. CS0036475

OAH No. 2026070929

DECISION

Sharon Lahey, Administrative Law Judge, Office of Administrative Hearings (OAH), State of California, heard this matter by videoconference on August 27, 2026.

Andrea Pociano, Fair Hearings Representative, represented Inland Regional Center (IRC).

Claimant's father represented claimant.

Oral and documentary evidence was received, the record was closed, and the matter was submitted for decision on August 27, 2026.

ISSUE

Did IRC correctly find claimant was only provisionally eligible for regional center services under the Lanterman Developmental Disabilities Services Act of 1969 (Lanterman Act), or should IRC have found claimant was eligible for regional center services due to a substantial disability resulting from autism spectrum disorder (ASD)?

FACTUAL FINDINGS

Background

1. Claimant is a three-year-old male seeking regional center services on the basis of ASD.
2. On May 4, 2026, IRC issued a Notice of Action (NOA) advising claimant that claimant met the provisional eligibility criteria for regional center services but was not eligible for regional center services under the Lanterman Act. IRC cited the law underlying its determination and advised claimant of his appeal rights.
3. On July 17, 2026,¹ IRC received claimant's appeal of IRC's determination that claimant was not eligible for regional center services.

¹ IRC's Appeals Tracking form misstates that IRC received claimant's appeal on May 6, 2026 (the date of the NOA). Claimant's Appeal Request Change Form is dated July 17, 2026, which is consistent with IRC's position statement stating that IRC received claimant's appeal on July 17, 2026.

4. On July 21, 2026, OAH received IRC's request to set hearing, and this hearing followed.

ASD Assessments

ENSEMBLE ASSESSMENT

5. On December 10, 2025, claimant underwent a psychological evaluation for ASD at Ensemble Therapy (Ensemble), which consisted of: a family interview; chart review; clinical observation; and ASD, behavioral, and developmental testing. In a written report, the evaluators, Charity Thomann, Ph.D., and Yan Somoza, Ph.D., found that claimant met the diagnostic criteria for ASD, with language impairment, and developmental disorder of speech and language.

6. As to the ASD diagnosis, Drs. Thomann and Somoza found deficits in social and adaptive functioning and restricted and repetitive behavioral patterns. For example, claimant displayed: limited back-and-forth communication and few words; decreased emotions; inconsistent eye contact; limited engagement; repetitive motor movements and sensory-seeking behaviors; and difficulty with transitions. However, claimant was also able to utilize distal pointing with coordinated eye gaze, some spontaneous gestures, and he looked up when called and indicated enjoyment through directed smiling. Claimant ran and hid behind his father throughout the assessment, including when the evaluators attempted to initiate interactions.

7. Autism Diagnostic Observation Schedule, Second Edition (ADOS-2), testing scoring revealed a "moderate level" of ASD-related symptoms. Cognitive testing scores fell within the below-average range. Adaptive testing revealed overall adaptive skills in the extremely low-to-low range. Among other recommendations, Drs. Thomann and Somoza "highly recommended" retesting in one to two years after

claimant availed himself of recommended interventions “to determine if further supports [were] needed.”

AB PSYCH ASSESSMENT

8. On April 21, 2026, claimant underwent a psychological evaluation at AB Psych Consulting (AB Psych), which consisted of: a review of claimant’s records; a clinical interview; clinical observations; parental reporting; and ASD, behavioral, and intelligence testing. In a written report, the evaluator, Anthony Benigno, Psy.D., found claimant did not meet the diagnostic criteria for ASD under the *Diagnostic and Statistical Manual of Mental Disorders, Fifth Edition, Text Revision* (DSM-5-TR).

9. Dr. Benigno found claimant met only one of the three required Category A deficits (persistent deficits in social communication and interaction) under the DSM-5-TR. Specifically:

- Claimant did not have deficits in social-emotional reciprocity (social approach; conversation; sharing of interests, emotions, and affect; and initiation and response to social interactions). While claimant’s father reported claimant had limited social interactions with unfamiliar peers, his father also noted he did interact (showing and giving behaviors and shared laughing) with familiar family members. During the evaluation, claimant “participated freely, displayed plenty of shared enjoyment,” “demonstrated frequent reciprocity,” and initiated interactions and play with Dr. Benigno through behaviors, comments, smiles, and laughter.
- Claimant did not have deficits in nonverbal communicative behaviors. He made several three-point gazes (a nonverbal communication skill using eye

gaze to communicate) and requested Dr. Benigno blow bubbles by using gestures integrated with vocalizations.

- Claimant had deficits in developing, maintaining, and understanding relationships. While he displayed some pretend play during the assessment, his father reported claimant did not have friends or play with peers.

10. Dr. Benigno found claimant met three of the four Category B deficits (restricted, repetitive patterns of behavior, interest, or activities), with at least two Category B deficits required to diagnose ASD under the DSM-5-TR. Specifically:

- Claimant displayed stereotyped or repetitive motor movements, use of objects, or speech. His father reported claimant engaged in frequent hand flapping, spinning, hopping, and pacing. During the assessment, claimant demonstrated “vague toy flapping” and some finger mannerisms.
- Claimant did not insist on sameness (e.g., eating the same foods every day) or display ritualized patterns of behavior, rigid thinking, inflexible adherence to routines, or difficulties with transitions. His father did not report these behaviors, and he did not display these behaviors during the assessment.
- Claimant displayed highly restricted and/or fixated interests with abnormal intensity or focus. His father reported claimant had an unusually strong preoccupation with planes and trains. During the assessment, claimant showed a strong interest in planes.
- Claimant displayed hyperreactivity to sensory input or unusual interest in sensory aspects of the environment. His father reported claimant inspected

materials up close and at odd angles, which Dr. Benigno observed, and claimant covered his ears in response to certain sounds.

11. Dr. Benigno noted that claimant's "demeanor shifted from guarded to friendly once rapport was established." Once comfortable, claimant made adequate eye contact and consistently, clearly, and effectively integrated eye contact, facial expressions, and gaze into communications. Claimant was consistently and spontaneously engaged throughout the session. He made "clear social overtures to [Dr. Benigno] by utilizing nonverbal and verbal means"; used gestures (e.g., pointing, reaching, and grabbing); and "readily returned smiles" and directed "showing behaviors, smiles, and laughter" toward Dr. Benigno. Claimant made immediate eye contact when his name was called. Claimant made frequent attempts to get or maintain Dr. Benigno's attention and displayed a range of appropriate responses.

12. Claimant's ADOS-2 testing score indicated "minimal-to-no evidence" of ASD-related symptoms.

13. Dr. Benigno found that claimant's eligibility for regional center services based on intellectual disability was not possible because claimant was not able to complete intelligence testing due to inadequate test-taking skills.² He noted that partial results of claimant's intelligence testing did not suggest the presence of cognitive delays beyond speech delays. However, he found claimant appeared to demonstrate global developmental delays with substantial deficits in receptive and expressive language and learning. Accordingly, Dr. Benigno concluded that claimant

² Whether claimant has an intellectual disability is not at issue in this appeal, as claimant appeals only IRC's denial of regional center services based on ASD.

met provisional eligibility criteria and recommended IQ testing before claimant turned five "to clarify his diagnosis."

HIGH DESERT ASSESSMENT

14. On June 26, 2026, claimant underwent a psychological evaluation at High Desert Psychological Services Inc. (High Desert), which consisted of: behavioral observations; mental-status examination; parental reporting; and ASD and behavioral testing. In a written report, the evaluator, Sean Sterling, Ph.D., found claimant met the diagnostic criteria for ASD, Level 2, with accompanying language disorder.

15. Dr. Sterling found that subjective and objective measures supported claimant's ASD diagnosis. On assessment, claimant demonstrated "markedly limited spoken language, comprised of only a small number of functional words" and inconsistent social engagement that diminished over the course of the assessment. While there was an initial period of shared enjoyment and interactive play, there was a "marked shift toward withdrawal and non-response to social bids as the session progressed." Claimant also "demonstrated limited joint attention, minimal directed vocalization, and repetitive, sensory-based object play, including spinning toys and unusual sensory exploration of his environment."

16. As to specific findings, claimant's eye contact was avoidant and he became distressed, crying upon greeting and trying to hide under a chair, when Dr. Sterling tried to engage him. Claimant did not engage in any spontaneous speech and communicated primarily through gestures and a speech-generating device. He demonstrated sustained visual fixation on a small object, which his father eventually had to remove. He had difficulty transitioning between tasks, including having a tantrum when informed the assessment was ending. Dr. Sterling noted claimant

presented with limited directed vocalization and gestures; intermittent social engagement; limited joint attention; repetitive behaviors; repetitive toy manipulation; and unusual sensory exploration.

17. Claimant's ADOS-2 score indicated a "low level" of ASD-related symptoms. Dr. Sterling stated that intellectual functioning could not be assessed.

IRC's Evidence

DOCUMENTARY EVIDENCE

18. In addition to the Ensemble and AB Psych assessment reports discussed above, IRC submitted the following documents, all of which were admitted into evidence: a position statement; a December 11, 2025, Occupational Therapy Initial Evaluation by Thrive Pediatrics; Early Start Individualized Family Service Plan documents; an April 27, 2026, Progress Report/Periodic Review; IRC eligibility determination documents; an April 29, 2026, Client Development Evaluation Report; excerpts from the DSM-5-TR; excerpts from Association of Regional Center Agencies (ARCA) recommendations; and the curriculum vitae (CV) of Alexandra Mendez, Psy.D.

TESTIMONY OF IRC EXPERT ALEXANDRA MENDEZ, PSY.D.

19. Dr. Mendez's testimony, her CV, and other documents admitted into evidence are summarized as follows: Dr. Mendez obtained a Bachelor of Science in Psychology in 2017, a Master of Arts in Clinical Psychology in 2019, and a Doctor of Psychology in 2022. She has been a licensed clinical psychologist in California since September 2024, at which time she joined AB Psych. Among other duties at AB Psych, she serves as a contracted provider for IRC, performing psychological assessments and serving on IRC eligibility teams to determine Lanterman Act eligibility. Dr. Mendez

correctly articulated the eligibility criteria under the Lanterman Act. She is an expert in the diagnosis of individuals with developmental disorders (including ASD) and eligibility for regional center services under the Lanterman Act.

20. Dr. Mendez testified that in evaluating the validity of a diagnosis, IRC follows the DSM-5-TR and ARCA recommendations.

21. Under the DSM-5-TR, ASD is a neurodevelopment disorder that is broken down into two diagnostic categories, Categories A and B. Category A requires significant deficits in social functioning, such as back-and-forth interactions; this category assesses whether an individual seeks engagement, is interested in social interactions, and has deficits in areas like nonverbal communication, shared enjoyment, imagination, and sharing. An ASD diagnosis requires meeting all the Category A criteria. Category B involves the typical "red flags," such as repetitive behaviors and sensory limitations like aversions to certain textures, noise sensitivity, fixated interests, ritualized routines, significant language deficits, and difficulty with transitions. An ASD diagnosis requires meeting only two of four Category B criteria.

22. Dr. Mendez reviewed claimant's records and agreed with IRC's determination that claimant was provisionally eligible for regional center services but did not meet the diagnostic criteria for ASD so as to be eligible for regional center services at this time. She explained that provisional eligibility applies to younger children when testing cannot be completed; a child is provisionally eligible if the child shows significant deficits in at least two required areas, such as communication and learning. If a child is provisionally eligible, IRC will provide services until age 5, at which point any improvement will have occurred, and the child can adequately complete a comprehensive evaluation.

23. Dr. Mendez discussed the AB Psych assessment with Dr. Benigno and agreed with his conclusion that claimant did not meet the diagnostic criteria for ASD. As to Dr. Benigno's key findings, ADOS-2 testing revealed minimal-to-no evidence of ASD. Dr. Mendez explained that the ADOS-2 is the "gold standard" of ASD diagnostic tools because it is a longstanding, studied, and empirical measure based on clinical observations, rather than reported history. As to significant clinical observations, claimant displayed "mild ASD-like symptoms," such as "anxiety behavior" (being upset and having a tantrum) before rapport was established, limited vocalizations toward others, repetitive hand mannerisms, sensory seeking behaviors, and "slowness to warm up," but he did not display symptoms that met a diagnostic threshold. Moreover, claimant also displayed strengths. For example, while he did not seek engagement initially, he later became animated and "silly." Claimant also interacted and played with Dr. Benigno, initiated interactions, shared enjoyment, directed facial expressions (e.g., smiling) at others, used gestures, and played appropriately with toys.

24. While claimant met diagnostic criteria for ASD under testing based on subjective reports from claimant's father, Dr. Mendez testified that these measures are subject to both underreporting and overreporting and must be checked against other records and clinical observations. Further, while this subjective testing indicated low adaptive functioning, this could be attributed to conditions other than ASD.

25. Dr. Mendez testified that claimant was unable to complete intelligence testing, which she stated was not unusual for a child of claimant's age. Further, while claimant lacked the skills to complete the testing, he scored in the average range on the one task he was able to complete, object assembly. Given his inability to complete intelligence testing and adaptive deficits in learning and communication, IRC would want more intelligence testing scores to be able to adequately assess claimant's

overall intelligence and abilities. Accordingly, Dr. Benigno properly recommended that claimant be found provisionally eligible, which would hopefully lead to improvement with services, and reassessed prior to age five.

26. As to the Ensemble assessment, Dr. Mendez testified that while there were some findings of ASD-like symptoms, there were also findings that were not typically associated with ASD. Specifically, claimant engaged in “pro-social behaviors,” such as directing facial expressions, initiating interactions with others, playing with others, and using gestures (pointing). Dr. Mendez noted that, like Dr. Benigno, the Ensemble evaluators observed speech and language impairments warranting support and recommended retesting after claimant had availed himself of recommended interventions.

27. As to the High Desert assessment, Dr. Mendez noted that while claimant’s ADOS-2 testing score fell within the ASD range, the findings concerning language and social engagement were inconsistent. Despite some shared enjoyment and interactive play, claimant became nonresponsive to social bids as the assessment progressed and displayed limited attention and sensory based play. Dr. Mendez also noted findings that claimant was attached to his parents, had general moments of joy, smiled, and engaged during shared activities.

28. Dr. Mendez testified that the ultimate problem with claimant’s three ASD assessments was that the ADOS-2 testing scores were variable across the assessments, ranging from minimal-to-no ASD symptoms, to low ASD symptoms, to moderate ASD symptoms. Claimant’s presentation also varied across the assessments. For example, at times, he was very engaged and willing to interact, while at other times, he withdrew and retreated. Dr. Mendez noted that claimant’s variable performance could be attributed to separation anxiety and/or inadequate testing skills. She found it

significant that claimant could adjust his behaviors based on how he perceived the environment. When claimant felt comfortable and safe, he could be fairly social, bonded, playful, and engaged, which was atypical for an individual with ASD.

29. Dr. Mendez testified that Lanterman Act eligibility requires that a developmental disability continue indefinitely. At this time, IRC could not make a determination as to whether claimant's condition would continue indefinitely and would like further testing in a couple of years to see if his condition, including his testing skills and emotional regulation, improved after services.

30. On cross-examination, when asked if a child with ASD could not show affection, Dr. Mendez stated she would expect to see more deficits than claimant displayed. She stated that a child with ASD would have significant deficits in nonverbal communication. When asked if a child with ASD could not use eye gaze to communicate or interact with others, Dr. Mendez stated that the evaluator would be looking at the severity of any deficits in these areas.

Claimant's Evidence

DOCUMENTARY EVIDENCE

31. In addition to the High Desert assessment report discussed above, claimant submitted a position statement and an August 14, 2026, Speech and Language Reevaluation report from Ensemble, which was admitted into evidence.

TESTIMONIAL EVIDENCE

Claimant's Behavioral Analyst

32. The testimony of claimant's board-certified behavioral analyst (BCBA) is summarized as follows: Claimant's BCBA has been providing applied behavior analysis (ABA) services to claimant since approximately February 2026, right before he turned three. She is in claimant's home often because she also provides services to his older brother. She has had the opportunity to observe claimant and become familiar with his functioning.

33. As to self-care, claimant lacks any awareness of when he needs his diaper changed because he does not know when his diaper is soiled. He cannot eat by himself; claimant's BCBA has seen him try to use a spoon, but he just makes a mess. He is unable to do simple things, such as dress himself, bathe, brush his teeth, and wash his hands. The BCBA has tried to get him to wash his hands, but he just fights with her or puts his hands out without washing them. He is unable to do other things a typical three-year-old could do, such as watch a video and go off to the bathroom by himself.

34. Claimant requires constant supervision because there are a lot of safety concerns with him. He engages in self-injurious behaviors when he is upset, such as throwing himself on the floor. In or around July 2026, claimant's BCBA was in claimant's front yard when claimant became upset and tried to throw himself onto the cement. She had to catch him, which was scary. Claimant also attempts to run out of the house if someone opens the front door and puts objects in his mouth, such as toys.

35. Claimant's communication is "nowhere near like-aged children." He is able to gesture. However, when people do not understand what he wants, he "flip[s] out and throw[s] himself on the floor." In their ABA sessions, claimant's BCBA is teaching him sign language; he has been able to learn some signs, but they just started working on this.

36. As to the AB Psych assessment, the BCBA noted that while claimant engaged with Dr. Benigno and shared enjoyment, this occurred when claimant was showing Dr. Benigno things that claimant is obsessed with, like cars. While Dr. Benigno did a good job getting claimant to interact with him, claimant's interaction was mainly due to claimant's enjoyment of something he was obsessed with.

Testimony of Claimant's Father

37. The testimony of claimant's father is summarized as follows: Claimant is a "happy-go-lucky" kid. However, he has meltdowns if he does not get what he wants or becomes frustrated. During his meltdowns, there is no way to control him, and the use of force is necessary. It can take up to 30 minutes for claimant to calm down. Claimant engages in self-harming behaviors such as headbanging and throwing himself. He is also prone to elopement and needs to be constantly watched.

38. Claimant has no self-awareness or sense of danger. For example, when he gets out of the car, someone must be right outside his door to prevent him from immediately running off. He does not understand dangers like running into the street or in front of a car. He will also hit his head on corners; his father has tried placing safety devices on corners in their house, but claimant just removes them. Claimant also puts objects in his mouth. On one occasion, claimant's father had to take claimant to the hospital after claimant swallowed an object.

39. Claimant has three brothers, one of whom has ASD. Claimant's father observes similar ASD behaviors in claimant as he sees in claimant's brother with ASD. His father also sees ASD-related differences between claimant and claimant's brothers who do not have ASD.

40. Claimant's father feels strongly that claimant meets the diagnostic criteria for ASD, as found in the Ensemble and High Desert assessments. Claimant's father feels claimant already qualifies for regional center services and that giving him only temporary, provisional eligibility will just delay things. He stated that a reassessment and reevaluation will take a lot of time and be difficult because he already manages constant appointments while claimant's mother is busy caring for their children. Claimant's father is also concerned that finding claimant only provisionally eligible now will lead to an interruption in services that will cause claimant to regress.

LEGAL CONCLUSIONS

Burden and Standard of Proof

1. An individual seeking regional center services under the Lanterman Act (Welf. & Inst. Code, § 4500 et seq.) has the burden of establishing he meets the eligibility criteria for such services. He must meet this burden with a preponderance of the evidence, meaning simply, he must present evidence showing that his eligibility for regional center services is "more likely than not." (*Sandoval v. Bank of Am.* (2002) 94 Cal.App.4th 1378, 1387–88; Evid. Code, §§ 115, 500.)

Applicable Law

2. The purpose of the Lanterman Act is to provide a "pattern of facilities and services . . . sufficiently complete to meet the needs of each person with developmental disabilities, regardless of age or degree of handicap, and at each stage of life." (*Assn. of Retarded Citizens v. Dept. of Developmental Services* (1985) 38 Cal.3d 384, 388; Welf. & Inst. Code, § 4501.)

3. The Department of Developmental Services (Department) is the state agency responsible for carrying out the laws related to the care, custody, and treatment of individuals with developmental disabilities under the Lanterman Act. (Welf. & Inst. Code, § 4416.) To comply with its statutory mandate, the Department contracts with private nonprofit community agencies, known as "regional centers," to provide the developmentally disabled with "access to the services and supports best suited to them throughout their lifetime." (Welf. & Inst. Code, § 4620.)

4. Under the Lanterman Act, a "developmental disability" is a disability that: (1) is attributable to intellectual disability, cerebral palsy, epilepsy, autism, or disabling conditions closely related to intellectual disability or requiring treatment similar to the treatment required for individuals with intellectual disability; (2) originated before age 18 and is likely to continue indefinitely; and (3) constitutes a "substantial disability" for the individual. (Welf. & Inst. Code, § 4512, subd. (a)(1); Cal. Code Regs., tit. 17, § 54000, subds. (a)–(b).)

5. To constitute a "substantial disability," a disability must result in a "major impairment" in cognitive and/or social functioning and result in "significant functional limitations" in three or more of the following areas: receptive and expressive language;

learning; self-care; mobility; self-direction; capacity for independent living; and economic self-sufficiency. (Cal. Code Regs., tit. 17, § 54001, subd. (a).)

DSM-5-TR

Diagnostic Criteria for ASD

6. The DSM-5-TR identifies criteria for the diagnosis of ASD. The diagnostic criteria include: persistent deficits in social communication and interaction across multiple contexts (Category A); restricted repetitive and stereotyped patterns of behavior, interests, or activities (Category B); symptoms present in the early developmental period (Category C); symptoms causing clinically significant impairment in social, occupational, or other important areas of functioning (Category D); and disturbances that are not better explained by intellectual disability or global developmental delay (Category E). An individual must have a DSM-5-TR diagnosis of ASD to qualify for regional center services based on ASD.

7. Under Category A, the following three criteria must be present:

- (1) Deficits in social-emotional reciprocity, ranging, for example, from abnormal social approach and failure of normal back-and-forth conversation; to reduced sharing of interests, emotions, or affect; to failure to initiate or respond to social interactions.
- (2) Deficits in nonverbal communicative behaviors used for social interaction, ranging, for example, from poorly integrated verbal and nonverbal communication; to abnormalities in eye contact and

body language or deficits in understanding and use of gestures; to a total lack of facial expressions and nonverbal communication.

- (3) Deficits in developing, maintaining, and understanding relationships, ranging, for example, from difficulties adjusting behavior to suit various social contexts; to difficulties in sharing imaginative play or in making friends; to absence of interest in peers.

Conclusion

8. Claimant has not met his burden of establishing that IRC's provisional eligibility determination is incorrect. While the evidence does demonstrate deficits, especially in speech and language, the evidence did not establish that claimant met the required DSM-5-TR diagnostic criteria for a non-provisional ASD diagnosis at this time.

9. Claimant underwent three ASD assessments over a seven-month period, namely, the Ensemble assessment on December 10, 2025, the AB Psych assessment on April 21, 2026, and the High Desert assessment on June 26, 2026. Two of these assessments, the Ensemble and High Desert assessments, found claimant met the diagnostic criteria for ASD. By contrast, the third assessment, the AB Psych assessment, found claimant did not meet the diagnostic criteria for ASD. Given the thorough and supported findings of the AB Psych evaluator, Dr. Benigno, and the variance in claimant's presentation and ASD-related testing scores across the three assessments, Dr. Benigno's assessment is given the most weight.

10. Dr. Benigno found that claimant met only one of the three required Category A criteria required to diagnose ASD under the DSM-5-TR.³ Specifically, while claimant demonstrated the requisite deficits in developing, maintaining, and understanding relationships, he did not demonstrate the required deficits in social-emotional reciprocity and nonverbal communicative behaviors.

11. As to social-emotional reciprocity (e.g., back-and-forth interaction, sharing of interests and emotions, and initiation and responsiveness to social interaction), while claimant was initially anxious and hid behind his father, once Dr. Benigno was able to establish rapport with claimant, claimant “participated freely,” “displayed plenty of shared enjoyment,” initiated interactions,” “readily returned smiles,” immediately responded to his name being called, and directed “showing behaviors, comments, smiles, and laughter” toward Dr. Benigno throughout the assessment. While claimant’s BCBA attributed claimant’s engagement with Dr. Benigno to claimant’s “obsession” with the objects used, namely cars, Dr. Benigno’s social interactions with claimant involved a variety of other objects and activities, including putting items on a desk and watching them fall; blowing bubbles; playing “peekaboo” and “birthday party” games; and playing with a pop-rocket, doll, an airplane, and various miniature objects.

12. As to nonverbal communicative behaviors (e.g., integrated verbal and nonverbal communication, eye contact, body language, gestures, and facial expressions), claimant “made clear social overtures to [Dr. Benigno] by utilizing nonverbal and verbal means.” Claimant was able to communicate through gestures, imitation, vocalizations, clearly integrated eye contact and gaze, facial expression

³ Dr. Benigno found claimant met the Category B criteria under the DSM-5-TR.

(smiling), and laughter. Claimant also appropriately coordinated his pointing and gaze toward objects and people and integrated eye contact effectively with vocalizations and gestures to communicate social intention.

13. While the Ensemble and High Desert assessments contradicted the AB Psych assessment, the variability among the three assessments during a short seven-month period raises concerns as to whether the assessments accurately captured claimant's ongoing condition for the purposes of Lanterman Act eligibility. (Welf. & Inst. Code, § 4512, subd. (a)(1) [requiring a developmental disability that is expected to continue indefinitely].) All three assessments administered ADOS-2 testing, the "gold standard" ASD diagnostic tool, with varying results: The Ensemble assessment found a "moderate" level of ASD-related symptoms in December 2025; the AB Psych assessment found "minimal-to-no evidence" of ASD-related symptoms four months later, in April 2026; and the High Desert assessment found a "low" level of ASD-related symptoms just two months later, in June 2026.

14. The variability among the assessments also raises concerns as to whether factors other than claimant's capabilities, specifically, his comfort level, negatively impacted the Ensemble and High Desert assessments. Notably, his presentation across the assessments was consistent in many respects: He communicated through gestures, gaze, and expression (smiling); initiated and engaged in social interactions; and indicated shared enjoyment with all the evaluators. He also displayed avoidant behavior, namely, hiding behind his father or under furniture, with all the evaluators. However, during the AB Psych assessment, once rapport was established, claimant was consistently engaged throughout the assessment. During the Ensemble assessment, "[h]is demeanor shifted from guarded to friendly," but his engagement decreased during the course of the assessment. During the High Desert assessment, his

demeanor was “characterized primarily by distress and avoidance during examiner interaction,” and he displayed inconsistent engagement, with a “marked shift” from “initial interest” to non-responsiveness. Claimant’s consistent engagement with Dr. Benigno throughout the AB Psych assessment raises concerns that the Ensemble and High Desert assessments were affected by claimant’s comfort levels with the evaluators and did not accurately reflect his true capabilities.

15. Considering all the evidence, claimant has not met his burden of establishing that IRC’s determination that claimant was provisionally eligible and did not have a valid ASD diagnosis establishing eligibility for regional center services under the Lanterman Act was incorrect. While claimant’s father is commended for his care and efforts, especially given his demanding schedule, a preponderance of the evidence does not establish error in IRC’s provisional eligibility determination.

ORDER

Claimant’s appeal from Inland Regional Center’s determination that he is provisionally eligible for regional center services is denied. Inland Regional Center’s determination that claimant is provisionally eligible for regional center services and should be retested in the future is affirmed.

DATE: September 10, 2026

SHARON LAHEY
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.