

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

In the Matter of:

CLAIMANT

and

NORTH BAY REGIONAL CENTER.

DDS. No. CS0038602

OAH No. 2026071051

DECISION

Administrative Law Judge Karen Reichmann, State of California, Office of Administrative Hearings, who served as the hearing officer, heard this matter on August 21, 2026, by videoconference.

Alexandra Evans, Fair Hearing Specialist, represented North Bay Regional Center (NBRC).

Claimant was represented by her mother. Claimant was not present at the hearing.

The record closed and the matter was submitted for decision on August 21, 2026.

ISSUE

Is claimant eligible for regional center services?

FACTUAL FINDINGS

Procedural Background

1. Claimant is five years old and lives with her family.
2. Claimant was diagnosed with autism spectrum disorder (ASD) at age two. She was found provisionally eligible for regional center services at that time. Provisional eligibility was based on her ASD diagnosis and substantial limitations in receptive and expressive language and self-direction.
3. NBRC assessed claimant for Lanterman Act (Welf. & Inst. Code, § 4500 et seq.) services around the time of her fifth birthday earlier this year. A psychological evaluation was performed by Kathy Khoie, Ph.D. An eligibility team that included a physician and two psychologists met to review the evidence and determined that claimant did not satisfy Lanterman Act eligibility criteria. NBRC issued a Notice of Action to claimant's family on July 20, 2026, stating that NBRC had found claimant not to be eligible. An appeal was submitted that same day, challenging NBRC's determination.

Regional Center Eligibility Criteria

4. To be eligible for services under the Lanterman Act, an individual must have a developmental disability that originates prior to age 18, the disability must not be solely physical in nature, the disability must be expected to continue indefinitely,

and the disability must constitute a substantial disability for the individual. (Welf. & Inst. Code, § 4512, subd. (a)(1).) A substantial disability is defined as the existence of significant functional limitations in at least three of the following major life activity areas: self-care, receptive and expressive language, learning, mobility, self-direction, capacity for independent living, and economic self-sufficiency. (*Id.*, subd. (l)(1).) The last two areas of major life activities are generally not taken into consideration when evaluating a young child such as claimant, because all children of this age are not typically capable of living independently and are not expected to be economically self-sufficient.

5. The parties agree that claimant has a developmental disability (ASD) and significant functional limitations in self-care and self-direction. Claimant contends that she has further significant functional limitations in other major life activity areas. NBRC disagrees.

Evaluations

6. Claimant was first diagnosed with ASD, with language impairment and without intellectual impairment, in 2023, by Dawn Montgomery, Ph.D. Dr. Montgomery assessed claimant at Level 2 (requiring substantial support) in the social deficit domain and at Level 1 (requiring support) in the restricted/repetitive behavior domain.

7. Claimant was assessed when she was 28 months old by her local county office of education. Delays were observed in her expressive and receptive language skills, self-help/adaptive skills, and social-emotional skills. No delays in cognitive skills, gross motor skills, or fine motor skills were observed.

8. Claimant was assessed by her local school district when she was 35 months old. She was assessed as below average in speech, language, and

communication. She was deemed eligible for special education services under the Autism category.

9. Dr. Khoie evaluated claimant on June 17, 2026. She administered the Wechsler Preschool and Primary Scale of Intelligence, Fourth Edition (WPPSI-IV). Claimant's Full Scale IQ score was 90, in the average range. The subscores were primarily in the average range, with a few in the low average range. The Verbal Comprehension score was 90, in the average range.

10. The Developmental Profile-4 (DP-4) was administered by providing a questionnaire to claimant's mother. Claimant's scores were in the average range in intellectual functioning and communication.

11. Dr. Khoie observed during the assessment that claimant made many comments, asked and answered questions, and that her speech was "predominantly clear in functional sentences" and "predominantly fluent."

12. Dr. Khoie concluded that claimant continues to meet the diagnostic criteria for ASD, without accompanying intellectual or language impairment, and assessed claimant at Level 1 in both the social deficit and restricted/repetitive behavior domains.

13. Based on her observations, she also concluded that claimant "presented with significant symptoms of ADHD." She recommended that claimant be monitored and evaluated for ADHD at age six. She also recommended that claimant receive ABA (Applied Behavior Analysis) therapy and follow her IEP (Individualized Education Program) for special education services.

NBRC Eligibility Determination

14. Psychologist Kuldip Raju, Psy.D., was on the eligibility team that determined that claimant is not eligible for services under the Lanterman Act. She did not personally assess claimant. Dr. Raju testified at the hearing to explain NBRC's decision. All children with provisional eligibility are reassessed at age five to determine whether they meet the criteria for ongoing Lanterman Act eligibility. The criteria for provisional eligibility and the criteria for permanent eligibility are different.

15. The eligibility team reviewed all documents provided by claimant's family and Dr. Khoie's evaluation report. The eligibility team determined that due to ASD, claimant has significant functional limitations in self-direction and self-care. Claimant struggles with social reciprocity, self-regulation, and decision making, as manifested by tantrums, crying, yelling, spinning, and other repetitive patterns of behavior. Dr. Raju explained that limitations in self-direction are very typical of individuals with ASD, and also noted that Dr. Khoie suspected that claimant might also have ADHD.

16. The eligibility team also determined that claimant does not have significant functional limitations in the areas of mobility, expressive and receptive language, and learning. Dr. Raju explained that the documents reviewed showed that claimant had greater language deficits in the past, but that her assessment by Dr. Khoie showed significant progress. Some issues with receptive language were noted in claimant's IEP, but not in expressive language. At this time, Dr. Raju believes that claimant is "where she should be" in language skills.

17. Regarding learning, Dr. Raju noted that claimant's Full Scale IQ tested average by Dr. Khoie in June 2026, and that even earlier testing did not demonstrate serious concerns about claimant's cognitive abilities. She explained that claimant's

need for repetition and redirection reflects her challenges with self-direction, and not significant functional limitations in her ability to learn.

18. The eligibility team saw no evidence suggesting that claimant has significant limitations in mobility.

Claimant's Evidence

19. Claimant's mother and grandmother testified at the hearing. Claimant's mother reported that claimant attended a special education preschool and transitional-kindergarten, and that claimant's language skills improved significantly once she started attending school. Claimant does occasionally mix up words when she is talking, for example she might misuse the "he" and "she" pronouns.

20. Claimant recently started kindergarten in a special education class. She receives speech therapy services and other services from a school psychologist pursuant to an IEP. No IEP documents were offered into the record. Claimant's mother reported to Dr. Khoie that the school district recently changed claimant's special education eligibility category from Autism to Other Health Impairment.

21. Claimant's mother reported that claimant was "at her best" on the day of her evaluation by Dr. Khoie and did not demonstrate the behaviors that she shows at home. Claimant shows her intelligence to people when she is outside the home, but not inside the home. Claimant's mother is concerned that claimant is behind academically, and reported that she knows numbers, shapes, and colors, but still does not know the alphabet. At school, claimant learns and retains information, but at home she does not, and needs to be told things over and over. For example, claimant will stop partway through a task and must be reminded repeatedly to finish the task.

22. Claimant's mother reported that claimant is smart, but is constantly "asking a million questions." Claimant does not understand why something is wrong, for example why she should not hit her brother, even when told repeatedly. Claimant's parents struggle daily to discipline claimant.

23. Claimant's mother and grandmother both described claimant's rigidity and difficulty handling changes in routine or deviation from what she expects. Claimant engages in challenging behaviors if she does not get what she was promised. She throws things, yells, and becomes hysterical.

24. Claimant will ask the same thing over and over again. Her family tries not to tell claimant about upcoming fun events such as a party or dance class until the day of the event or the day before, because otherwise she will ask over and over, all day long, when the event is going to happen.

25. Claimant is receiving weekly ABA services. Lately the ABA provider is working with claimant on sharing with others and learning to wait, by setting a timer.

26. Claimant's mother reported that she asked claimant's NBRC caseworker earlier this year about whether NBRC would fund extracurricular activities, and that there was a delay in receiving a response. She wonders whether this request triggered the reassessment of claimant a few months later.

LEGAL CONCLUSIONS

1. The State of California accepts responsibility for persons with developmental disabilities under the Lanterman Act. 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. Dept. of Developmental Services* (1985) 38 Cal.3d 384.) The Act is a remedial statute; as such it must be interpreted broadly. (*California State Restaurant Assn. v. Whitlow* (1976) 58 Cal.App.3d 340, 347.)

2. A developmental disability is a disability that originates before an individual attains age 18, is likely to continue indefinitely, and constitutes a substantial disability for that individual. (Cal. Code Regs., tit. 17, § 54000, subd. (b).) The term “developmental disability” includes intellectual disability, autism, epilepsy, cerebral palsy, and what is commonly referred to as the “fifth category.” (Welf. & Inst. Code, § 4512, subd. (a).) The fifth category refers to “disabling conditions found to be closely related to intellectual disability or to require treatment similar to that required for individuals with an intellectual disability.” (*Id.*)

3. Pursuant to Welfare and Institutions Code section 4512, subdivision (l), the term “substantial disability” is defined as “the existence of significant functional limitations in three or more of the following areas of major life activity, as determined by a regional center, and as appropriate to the age of the person: (1) Self-care. (2) Receptive and expressive language. (3) Learning. (4) Mobility. (5) Self-direction. (6) Capacity for independent living. (7) Economic self-sufficiency.” These last two major life activities are generally not relevant when evaluating a young child such as claimant.

4. It is claimant’s burden to prove that she has a developmental disability, as that term is defined in the Lanterman Act.

5. It is undisputed that claimant meets the diagnostic criteria for ASD, an eligible condition, and the parties agree that she has significant functional limitations, relative to her peers, in self-direction and self-care. These limitations are directly related to her ASD.

6. The evidence failed to establish that claimant has significant functional limitations in any other relevant area of major life activity. Although claimant receives speech and language special education services, it was not established that she has significant functional limitations in expressive and receptive language. Dr. Khoie documented claimant speaking and responding appropriately and did not find language impairment. Claimant's mother acknowledged that claimant's language skills have improved significantly since the time she was found provisionally eligible.

7. The evidence did not establish significant functional limitations in learning, even though she is currently in a special education kindergarten class. IQ testing showed a score in the average range and all subscores were in the average or low average range. Dr. Raju persuasively explained that claimant's need for repetition and redirection relate to her significant functional limitations in self-direction rather than limitations in her ability to learn.

8. The evidence did not establish that claimant has any limitations in mobility.

9. Claimant has not established that she is substantially disabled by ASD, within the meaning of the Lanterman Act.

10. Claimant has not met her burden of establishing that she is eligible for regional center services at this time.

11. Claimant may reapply for regional center services in the future, should claimant fail to progress relative to her peers in the relevant areas of major life activity.

ORDER

Claimant's appeal is denied.

DATE:

KAREN REICHMANN

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.