

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

ANGEL R.,

Claimant,

vs.

KERN REGIONAL CENTER,

Service Agency.

OAH No. 2012080990

DECISION

This matter was heard by Erlinda G. Shrenger, Administrative Law Judge, Office of Administrative Hearings, State of California, on January 15, 2013, in Bishop.

Claimant was represented by his authorized representative Elizabeth Corpora. Claimant's mother was present. Claimant was present at the hearing only to give his testimony.¹

Kern Regional Center (Service Agency or KRC) was represented by Jeffrey F. Popkin, Associate Director.

Oral and documentary evidence was received, and argument was heard, on January 15, 2013. The record was closed and the matter was submitted for decision on January 15, 2013.

¹ Claimant and his mother are identified by titles or first name and initials to protect their privacy.

ISSUES

- (1) Whether claimant is eligible for regional center services under the fifth category.
- (2) Whether the Service Agency should be required to reassess claimant for eligibility for regional center services.

EVIDENCE RELIED UPON

Documentary: Service Agency's exhibits 1-16; claimant presented no exhibits.

Testimonial: Pamela Blackwell, MFT, Inyo County Behavioral Health; Noni Steedle (by telephone), Inyo County Wraparound Program; Michelle Howell, Case Manager, Inyo County Behavioral Health, Adult Program; claimant, and claimant's mother.

FACTUAL FINDINGS

PARTIES AND JURISDICTION

1. Claimant is an 18-year-old male. He lives with his mother, brother, and the baby his mother recently gave birth to in December 2012. Claimant's mother provides the financial support for the family.
2. On August 23, 2012, the Service Agency sent claimant and his mother a notice of proposed action (NOPA), which notified them of the Service Agency's decision not to conduct intake and assessment services for claimant and his case would be closed. The reason for this proposed action was that the Service Agency previously assessed claimant for eligibility in January 2009 and November 2010 and determined that he did not have a diagnosis that qualified him for regional center services, and there was no change in claimant's status.

3. On August 27, 2012, claimant's mother filed a fair hearing request, on claimant's behalf, to appeal the Service Agency's decision. Claimant was 17 years old at the time of filing. The fair hearing request identified Noni Steedle (Wraparound program counselor) as claimant's authorized representative. In the fair hearing request, claimant's mother indicated that she believed claimant has "a disabling condition that requires treatment similar to that of someone with mental retardation," and that claimant should be accepted as a KRC client with a full scope of services.

4. On September 11, 2012, the Service Agency, by Associate Director Jeffrey Popkin, held an informal meeting via teleconference with claimant's mother and Noni Steedle. At this meeting, the parties discussed claimant's current functioning and additional testing that had been completed by Inyo County. The Service Agency's interdisciplinary team reviewed the additional documents provided by claimant's mother and determined that claimant continued to not be eligible for regional center services. By letter dated September 19, 2012, the Service Agency notified claimant and Ms. Steedle of its determination that claimant is not eligible for services.

CLAIMANT'S BACKGROUND

5. Claimant has a history of in-utero exposure to drugs. Claimant's mother has admitted to using methamphetamine and alcohol while pregnant with claimant. Claimant's delivery was normal and there were no complications. Claimant reached most developmental milestones within normal limits except for speech. Claimant's mother reported that claimant did not start talking until he was four years old, he had very limited speech, and he was hyperactive.

6. In approximately 2004, Claimant had a near-drowning incident when he was approximately 10 years old. Claimant was playing with friends by a stream

near his home. He slipped and fell, hitting his head. He appeared to be unconscious and fell into the creek. The other children reportedly ran for help. Claimant was removed from the creek. Paramedics noted he was experiencing "agonal respirations, but did have a heart rate." Claimant was airlifted to the nearest trauma center, where he was intubated and sedated. There was no cardiac arrest. After a short period, claimant started moving purposely and regained consciousness. According to medical records, claimant was eventually discharged with a "positive neurological outlook."

7. Claimant's mother has reported that claimant was "different" after the near-drowning incident and behaved in odd and unusual ways. According to the mother, in the next five years after the incident, claimant had problems with concentration and attention, and difficulty grasping concepts. He had significant social issues and difficulty making friends. He avoided social contact and had trouble making eye contact. The avoidance of eye contact increased to the point that claimant was closing his eyes when in public and bumped into objects. In the five years after the near-drowning incident, claimant had multiple problems with the law. He has been arrested and detained at the Inyo County Juvenile Center for use of drugs and alcohol, and being convicted of accepting stolen property.

8. Claimant receives special education services from his school district under the eligibility category of emotional disturbance. From approximately 2008 to 2010, claimant attended three different schools for differing durations. He primarily attended the Keith Bright School, which is a court school, and also attended Jill Kinmont Booth Community School and Bishop Union High School for short periods.

9. Claimant's individualized education program (IEP) dated April 28, 2010, was presented at the hearing. The IEP indicates claimant was 15 years old

and in the tenth grade. Claimant's overall academic skills were described as "limited." His reading level was at the third to fourth grade level. His math skills and writing skills were at the fourth to fifth grade level. His gross and fine motor skills, and adaptive skills, were age appropriate and he was able to physically care for himself. In the social emotional/behavioral area, claimant was noted to have difficulty controlling his impulsivity and staying focused on the task at hand, and was non-compliant with his school work. In terms of his health, it was noted that claimant had a "[h]istory of a near drowning accident while in elementary school. People (family and friends) noted skills and behavior deteriorated afterwards." The IEP states that claimant requires a one-on-one aide. "His distractability and impulsivity make any academic success unlikely without aide support. [Claimant] has poor social skills and poor peer relationships, which result in tensions, potential conflict, and his victimization."

10. Since approximately April 2009, Claimant has received case management, counseling and/or medication support services from Inyo County Mental Health and Inyo County Health and Human Services, Behavioral Health Division. Progress reports for these services indicate claimant's diagnosis as adjustment disorder with anxiety, alcohol and THC abuse, and a history of a diagnosis of ADD. The progress reports also show claimant's medications as including Strattera, Concerta, Adderall, and/or ADHD medications.

PREVIOUS ASSESSMENTS

11. (A) In or about January 2009, as part of the initial intake and assessment services provided to claimant, the Service Agency referred claimant to licensed psychologist Kimball Hawkins, Ph.D., for a psychological evaluation. Dr. Hawkins conducted the psychological evaluation of claimant on January 20, 2009. Claimant was 14 years old and in the ninth grade at the time of the evaluation.

(B) Dr. Hawkins reviewed records, made clinical observations of claimant, and administered the Wechsler Intelligence Scale for Children-IV (WISC-IV), the Wide Range Achievement Test-Revision Four (WRAT-4), Bender Gestalt II, and Vineland Adaptive Behavior Scale-II (Vineland). The testing showed claimant having symptoms of marijuana abuse, learning disorder, and a conduct disorder. His overall intellectual functioning was in the low average to borderline deficit range, with academic achievement at the fourth grade level in word recognition and fifth grade level in reading. The results of the Vineland indicated overall adaptive functioning in the average range. On the WISC-IV, claimant's scores measured his cognitive abilities in the low average to borderline deficit range, with a full-scale IQ score of 78. The results of the WRAT-4 measured claimant's reading skills at a fourth grade level and math skills at a fifth grade level. Based on his evaluation of claimant, Dr. Hawkins diagnosed claimant with cannabis abuse, learning disorder, and conduct disorder.

12. On March 3, 2009, the Service Agency completed an Assessment/Closure Summary form on which it indicated the status of claimant's case as "Closed case, not developmentally disabled."

13. (A) Pamela Blackwell is a licensed marriage and family therapist who has worked for Inyo County Behavioral Health for over 11 years. Ms. Blackwell testified at the hearing. She knows claimant through her interactions with him at the Inyo County Juvenile Center and assessments she conducted in March and April 2009.

(B) On March 31, 2009, Ms. Blackwell performed a cross-cultural clinical assessment of claimant while he was incarcerated at the Inyo County Juvenile Center. She diagnosed claimant with oppositional defiant behavior and dysthymic disorder. In her written summary, Ms. Blackwell noted that claimant is a 14 year old

currently incarcerated pending an appropriate school and home placement. He had a recent history of multiple incarcerations for petty crimes and substance abuse, school failure, and disrupted family relationships. His school requested an AB3632 evaluation. She also noted claimant had a history of head trauma and loss of oxygen due to a near drowning incident. Possibly as a result, claimant shows very poor judgment, poor impulse control, defiance toward authority, substance abuse, and irritability, which put his educational and home placement at high risk. Ms. Blackwell felt that claimant could benefit from a psychiatric evaluation and on-going case management.

(C) On April 30, 2009, Ms. Blackwell performed another cross-cultural clinical assessment of claimant, this time on an outpatient basis at her office. Based on this evaluation, Ms. Blackwell diagnosed claimant with ADHD and dysthymia, and also noting but not diagnosing a learning disability and alcohol and cannabis abuse. She noted that claimant had a near-drowning incident which school authorities "suspected had caused neurological issues." She also noted claimant having a history of using drugs, drinking, and being defiant with authority.

14. In or about March 5, 2010, claimant participated in neuropsychological testing at the Fort Defiance Indian Hospital. Vicky T. Lomay, Ph.D., is a licensed clinical psychologist at the Hospital. In a letter dated March 5, 2010, Dr. Lomay reported that her preliminary "general impression" of claimant from the two weeks of testing was that he "continues to exhibit residual effects of his near-drowning incident." In her letter, Dr. Lomay noted: "His general intellectual functioning is in the borderline to low average range, with academic skills in the low average range. He showed significant difficulty in activities that required mental manipulation of information (i.e. keeping track of the order of numbers and letters at the same time.) His memory for visual and verbal items was

impaired. He did demonstrate retention for those items he did learn." Dr. Lomay recommended "a rehabilitation program specifically for brain injury and/or other neurological disorders."

15. (A) On April 28, 2010, licensed psychologist Nicholas J. Dogris, Ph.D., performed a psychological evaluation of claimant. At the time of the evaluation, claimant was 15 years old. Claimant was referred to Dr. Dogris for a psychological evaluation by the Inyo County Superior Court for the purpose of determining his current psychiatric status and treatment recommendations. Dr. Dogris conducted a clinical interview, reviewed claimant's social history, and administered psychological tests. Dr. Dogris prepared a written report of his findings and conclusions.

(B) Dr. Dogris noted that, according to records, claimant had been evaluated and tested by multiple health care professionals over the past five years. "Several diagnoses have been given including ADHD, Cognitive Disorder, Learning Disorder NOS, Cannabis Abuse, Alcohol Abuse, Fetal Alcohol exposure, and Reactive Attachment Disorder. [Claimant] has taken psychiatric medications and has suspended use of the medications because he did not like the way they made him feel. . . . Cognitive testing shows that [claimant] has borderline intellectual functioning with an IQ in the 80's."

(C) Based on his evaluation of claimant, Dr. Dogris diagnosed claimant with cognitive disorder, borderline intellectual functioning, and traumatic brain injury. In Dr. Dogris' opinion, the near drowning incident was a "significant traumatic brain injury" and caused significant damage to his left frontal lobe. In his written report, Dr. Dogris wrote: "Coherence measures are associated with how well each brain region is connected, or communicating, with other regions of the brain. In [claimant's] case the connectivity of each brain region is communicating at a rate that is too fast, or hyperactive, which can cause racing thoughts, attentional

problems, memory problems and impulsivity. In many cases where a person sustains a traumatic brain injury the brain will engage in hypercoherent connectivity for a period of time post injury so as to repair itself. This may be the case for [claimant]."

(D) Dr. Dogris opined that he does not know how claimant will be able to function in the community without constant supervision. He does not function well in school, is oppositional and does not appear to have insight into his problems. Dr. Dogris does not think claimant has the skills to abstain from drug and/or alcohol use. Dr. Dogris' opinion is that it is in claimant's best interest to be in a placement facility that can provide him with the treatment and supervision that he requires.

16. On October 18, 2010, Dr. Dogris performed another psychological evaluation of claimant. Claimant was referred to Dr. Dogris for a psychological re-evaluation by the Inyo County Superior Court to determine claimant's current psychiatric status and treatment recommendations. Dr. Dogris performed a clinical interview and clinical history, and administered psychological testing. He diagnosed claimant with cognitive disorder NOS, borderline intellectual functioning, and traumatic brain injury. He recommended treatment including participation in Alcoholics Anonymous, once a week, for one year, and weekly neurotherapy for one year. Dr. Dogris had provided neurotherapy treatment to claimant for 12 weeks, from approximately June to September 2010. During that time, he found claimant "made significant improvements in cognitive and social ability." Dr. Dogris opined that claimant could continue to improve if he is in a structured setting that can guide him. The structured setting could be in the community, as Dr. Dogris did not believe claimant was a danger to himself or others.

17. On November 18, 2010, the Service Agency's interdisciplinary team reviewed claimant's case for eligibility for a second time. The team concluded that

claimant's case should not be accepted for reassessment. There was no evidence of claimant having a diagnosis of mental retardation, cerebral palsy, autism or epilepsy. Claimant's learning, emotional, and behavioral problems are not eligible conditions for regional center services.

18. (A) On June 23, 2011, Dr. Dogris conducted an EEG evaluation of claimant's brain. Dr. Dogris noted that claimant presented in a manner that he had not observed in the past. Specifically, claimant was paranoid, delusional and clearly responding to internal stimuli. Dr. Dogris' opinion was that claimant "was experiencing auditory and olfactory hallucinations, was agitated, and could not control his impulses to act out." Dr. Dogris found this to be "very unusual" for claimant and "raised significant concern for his safety."

(B) Results of the EEG indicated that claimant's brain "has significant organic damage" that has not been diagnosed thoroughly. Claimant's EEG showed a significant deregulation along the entire sensory motor strip, which can result in the brain's inability to slow itself down, and can produce insomnia, agitation, racing thoughts, paranoia, and attentional problems. Further, Dr. Dogris found that claimant had significant damage to his right frontal lobe, which can impair attentional ability and the ability to regulate emotional states.

19. A Mental Residual Functional Capacity Assessment report dated August 20, 2012, was presented at the hearing. (Exh. 5.) This report is signed by a medical consultant, and appears to be related to claimant's application for social security disability benefits. The report states, in part: "[Claimant] is a highly impaired individual, experiencing psychotic symptomology, mood dysregulation and cognitive difficulties; the latter at least in part due to brain injury incurred 2° hypoxia in near-drowning incident. [¶] As a result of these factors, [claimant] is unable to maintain persistent attention, interact in appropriate fashion with

peers/co-workers, supervisors, respond to critique/criticism/direction in appropriate way or adapt to stresses common to workplace/educational environment. He will require ongoing intensive intervention & supervision in all facets of his life."

CLAIMANT'S CURRENT FUNCTIONING

20. Claimant testified at the hearing. He testified he is currently in the eighth grade and attending the Jill Kinmont Booth Community School. His favorite subject is math. His mother supports him through her job at a casino; he does not know how much she earns at her job. His chores at home are to clean his room and wash dishes. When he needs to eat, his mother brings him food from the casino or, sometimes, he makes himself a sandwich. Claimant testified that he held a paying job (delivering food) that he obtained through his school's Workability Program, but got fired after a couple of weeks; he does not know why he was fired. Claimant does not drive but would like to get a driver's license. He walks or rides his bicycle to get around. Claimant testified that he has a problem with people picking on him, and he tries to ignore them. In a typical day, claimant wakes up paranoid and afraid that something bad is going to happen; he goes to school; and he returns home and spends his time watching television before going to bed. Currently, he takes medication but does not see a therapist.

21. Pamela Blackwell, who assessed claimant in 2009, testified that Claimant does not have the ability to support himself. He would not know how to manage his money and live within a budget. Based on her conversations with claimant, he does not understand how he is financially supported. He is prone to being victimized and has had things taken from him. He does not learn from experience. For example, he insisted on placing his bicycle in the trunk of a car a certain way, and continued to force it in even though he was previously shown it would not go in his way.

22. Noni Steedle is a parent partner for the Inyo County Wraparound program. Wraparound is a program through Inyo County Behavioral Health to provide services to keep high risk children out of a group home or foster placement. Children are referred to Wraparound from various agencies, such as probation, behavioral health, and schools. Ms. Steedle met claimant in approximately August 2011 and worked with him for one and one-half years until he turned 18. She helped claimant apply for public benefits and get him to doctor appointments. She assisted with claimant's application for social security benefits. According to Ms. Steedle, claimant has issues with hygiene and personal care. On several occasions, he came to their appointments in need of a shower. When Ms. Steedle discussed this problem with claimant, he said he did not want to shower or claimed he did not need one. Ms. Steedle was successful in correcting the problem only part of the time. Ms. Steedle visited claimant at home, where she observed the mother not being successful in getting him to complete his chores, such as taking out the trash, washing dishes, making his bed, and doing his laundry. Ms. Steedle feels that claimant needs a lot of guidance and supervision to live on his own, such as reminding him that bills are due, managing his finances, and taking care of his home. She notes that even with his mother's guidance, claimant is unable to do simple chores for her. He cannot manage his money and is susceptible to being taken advantage of by peers.

23. Michelle Howell is a case manager for the adult program with Inyo County Behavioral Health. She recently began working with claimant when he transferred from Wraparound to the adult program when he turned 18. In the short time she has worked with claimant, Ms. Howell has been getting to know him and establish some goals. Claimant is unclear about his goals. She meets with him once a month, and has had a total of three meetings with him. Ms. Howell has

found that claimant is quiet around her and she has to draw things out of him, and he needs prompting. The adult program requires the clients to initiate contact and seek out their case manager when needed. Claimant has not yet tried to seek out Ms. Howell for assistance. Ms. Howell feels that claimant is difficult to diagnose, since he presents differently every time she has seen him.

24. Claimant's mother testified at the hearing. Claimant was in a coma for a few days as a result of the near-drowning incident. She felt claimant was "not normal" when he was discharged from the hospital, in that he was quiet and withdrew from his friends. Claimant being quiet was unusual because he was previously hyper and running around. Claimant's mother is protective of claimant because he has been picked on all his life. The first time claimant was in juvenile probation was due to someone giving him stolen property. In January 2009, when claimant was 14, claimant's mother was incarcerated, which she says was a frequent occurrence. Claimant lived with his mother's other son who is also claimant's older brother, Daniel, during the periods when his mother was incarcerated. Claimant's mother has not been incarcerated since 2009 and is clean and sober. Claimant has been living with her since that time. She feels claimant is doing better but needs a lot of help.

25. Claimant's mother testified similarly to the other witnesses regarding claimant's inability to live by himself. He cannot be left on his own and she must constantly check on him. She does not allow him to use the wood stove in the house and has taken away his electric heater. When the fire alarm went off in the house, claimant just went back to sleep. She makes sure that he takes his medications and refills his prescriptions. Claimant is unable to refill his prescriptions even though his mother has shown him many times how to do it. Claimant is unable to manage his money. Claimant will not take showers. When he recently

ran out of toothpaste, he did not tell his mother and just stopped brushing his teeth. Claimant's mother denies that claimant uses or abuses cannabis. She keeps a "tough leash" on him. He takes his medications and is also cannabis tested every week. He is doing well. Claimant's mother will intervene if she sees her son going in the wrong direction. Claimant's medications address his mental health issues, which his mother feels are "not as bad as before."

26. Claimant's mother hopes that claimant can one day get a job and live on his own. She would like the Service Agency to provide her son with job training and assistance in getting an apartment and managing his money.

LEGAL CONCLUSIONS

1. For the reasons discussed below, claimant's appeal shall be denied. Although he meets the definition of "substantial disability," his disability is not due to one of the five categories of eligibility for regional center services. Thus, claimant is not eligible for regional center services. Further, the Service Agency shall not be required to reassess claimant for eligibility.

2. The Lanterman Developmental Disabilities Services Act (Lanterman Act) governs this case. (Welf. & Inst. Code, § 4500 et seq.) A state level fair hearing to determine the rights and obligations of the parties, if any, is referred to as an appeal of the service agency's decision. Claimant properly and timely requested a fair hearing and therefore jurisdiction for this case was established. (Factual Findings 1-3.)

3. Throughout the applicable statutes and regulations (Welf. & Inst. Code, §§ 4700 - 4716, and Cal. Code Regs., tit. 17, §§ 50900 - 50964), the state level fair hearing is referred to as an appeal of the regional center's decision. Where a claimant seeks to establish eligibility for services, the burden is on the appealing claimant to demonstrate that the regional center's decision is incorrect. Claimant

has not met his burden of proof in this case.

4. In order to be eligible for regional center services, a claimant must have a qualifying developmental disability. Welfare and Institutions Code section 4512, subdivision (a), defines "developmental disability" as:

a disability which originates before an individual attains age 18, continues, or can be expected to continue, indefinitely, and constitutes a substantial disability for that individual, and includes mental retardation, cerebral palsy, epilepsy, autism, and disabling conditions found to be closely related to mental retardation or to require treatment similar to that required for mentally retarded individuals, but shall not include other handicapping conditions that are solely physical in nature.

5. To prove the existence of a developmental disability within the meaning of Welfare and Institutions Code section 4512, a claimant must show that he has a "substantial disability." California Code of Regulations, title 17, section 54001 states, in pertinent part:

"Substantial disability" means:

(a) A condition which results in major impairment of cognitive and/or social functioning, representing sufficient impairment to require interdisciplinary planning and coordination of special or generic

services to assist the individual in achieving maximum potential; and

(b) The existence of significant functional limitations, as determined by the regional center, in three or more of the following areas of major life activity, as appropriate to the person's age:

- (A) Receptive and expressive language;
- (B) Learning;
- (C) Self-care;
- (D) Mobility;
- (E) Self-direction;
- (F) Capacity for independent living;
- (G) Economic self-sufficiency.

6. In California Code of Regulations, title 17, section 54002, the term "cognitive" is defined as "the ability of an individual to solve problems with insight, to adapt to new situations, to think abstractly, and to profit from experience."

7. In addition to proving a "substantial disability," a claimant must show that his disability fits into one of the five categories of eligibility set forth in Welfare and Institutions Code section 4512. The first four categories are specified as: mental retardation, epilepsy, autism and cerebral palsy. The fifth and last category of eligibility is listed as "Disabling conditions found to be closely related to mental retardation or to require treatment similar to that required for individuals with mental retardation." (Welf. & Inst. Code, § 4512.)

DISCUSSION

8. In this case, it was established that claimant has a "substantial disability" under California Code of Regulations, title 17, section 54001. He has major impairment of cognitive and social functioning. He is unable to solve problems with insight, to adapt to new situations, and to profit from experience. He is unable to perform tasks, even though his mother and service providers have previously instructed him on completing the tasks. He has difficulty making friends and socializing with peers and others. Further, claimant has significant functional limitations in at least three of seven areas of major life activity as appropriate to his age, specifically, learning, self-care, self-direction, capacity for independent living, and economic self-sufficiency.

9. However, it was not established that claimant's "substantial disability" fits into one of the five categories of eligibility under the Lanterman Act. There is no evidence that claimant has a diagnosis of mental retardation, autism, cerebral palsy, or epilepsy. Nor was it established that his disability is described by the "fifth category." The preponderance of the evidence established that claimant's disability is the result of brain injury from the near-drowning incident that occurred when he was approximately 10 years old. Traumatic brain injury is not a condition that qualifies claimant for regional center services under the Lanterman Act. The professionals who have assessed and/or treated claimant have given treatment recommendations suitable for persons with mental health and/or substance abuse issues, none of which are not eligible conditions. No evidence, such as expert opinion, was presented to establish that those recommended treatments are similar to those *required* for persons with mental retardation.

10. In addition to the eligibility issue, claimant contends that the Service Agency should be required to conduct a reassessment of his case for eligibility. This

contention must fail.

11. Pursuant to Welfare and Institutions Code section 4642, a regional center is required to conduct "initial intake and assessment services" for any person believed to have a developmental disability. Initial intake shall include, among other things, information and advice about the nature and availability of services provided by the regional center and other agencies in the community, and shall also include a decision to provide assessment. (*Id.*)

12. Pursuant to Welfare and Institutions Code section 4643, subdivision (a), if assessment is needed, it shall be completed within 120 days following initial intake, and may include collection and review of available historical diagnostic data, and provision or procurement of necessary tests and evaluations. In making an eligibility determination, "the regional center may consider evaluations and tests, including, but not limited to, intelligence tests, adaptive functioning tests, neurological and neuropsychological tests, diagnostic tests performed by a physician, psychiatric tests, and other tests or evaluations that have been performed by, and are available from, other sources." (Welf. & Inst. Code, § 4643, subd. (b).)

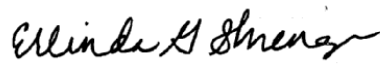
13. Here, the Service Agency previously provided "initial intake and assessment" services to claimant in approximately January 2009 and found him to be not eligible for services. The Service Agency conducted a second review of claimant's case in approximately November 2010, considering the additional psychological testing and evaluations that were completed subsequent to its initial review of claimant's case in January 2009. The Service Agency again found claimant to be not eligible. No evidence was presented that claimant's diagnoses have changed since November 2010 or that he has received a regional center eligible diagnosis. He is not a person "believed to have a developmental disability" as defined under the Lanterman Act. Consequently, he is not entitled to further intake

and assessment services from the Service Agency at this time.

ORDER

Claimant's appeal is denied. The Service Agency's determination that claimant is not eligible for regional center services is affirmed. The Service Agency is not required to provide claimant further intake and assessment services at this time.

DATED: February 4, 2013



ERLINDA G. SHRENGER

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 90 days.