

BEFORE THE  
OFFICE OF ADMINISTRATIVE HEARINGS  
STATE OF CALIFORNIA

In the Matter of:

PORCHA S.,

Claimant,

v.

SOUTH CENTRAL LOS ANGELES

REGIONAL CENTER,

Service Agency.

OAH No. 2013050712

DECISION

Carla L. Garrett, Administrative Law Judge (ALJ), Office of Administrative Hearings, State of California, heard this matter on August 12, 2013, in Los Angeles, California.

Johanna Arias-Bhatia, Fair Hearing /Government Affairs Manager, represented the South Central Los Angeles Regional Center (SCLARC or Service Agency). Jeffrey Gottlieb, Attorney at Law, represented Claimant Porcha S. (Claimant).<sup>1</sup> Claimant's mother (Mother) appeared at the hearing.

Oral and documentary evidence was received, the record was closed, and the matter was submitted for decision on August 12, 2013.

ISSUE

Does Claimant have a developmental disability (i.e., autism) that would make her eligible for regional center services?

///

---

<sup>1</sup> Claimant is referred to by party title to preserve Claimant's privacy.

///

## FINDINGS OF FACT

### JURISDICTION AND PROCEDURAL BACKGROUND

1. Claimant is a 31-year-old African-American woman, who resides in a two-bedroom house with Mother, Claimant's younger sister, and Claimant's younger autistic brother who visits over the weekends. (Testimony of Mother.)
2. On April 16, 2013, the Service Agency determined that Claimant had no developmental disability as defined by Welfare and Institutions Code sections 4512 and 4644, and was, therefore, ineligible for services. The Service Agency notified Claimant of its determination on April 21, 2013. Claimant filed a request for hearing on May 15, 2013, alleging that she had autism. (Service Agency's Exhibit (SAE) 1; SAE 2.)
3. Claimant sought, and was denied, regional center services on three prior occasions. The first denial occurred on May 6, 2003, when Claimant was 21-years-old. The second denial occurred on November 2, 2004, when Claimant was 22-years-old. The third denial occurred on August 21, 2007, when Claimant was 25-years-old. (Claimant's Exhibit (CE) 2.)

### EVALUATION HISTORY

#### A. 2003 Service Agency Psycho-Social and Psychological Evaluations

4. On March 25, 2003, Service Agency's Intake Service Coordinator, Carolyn Curry,<sup>2</sup> conducted a psycho-social evaluation of Claimant, when Claimant was 21-years-

---

<sup>2</sup> Ms. Curry died recently, so Service Agency's Intake Program Manager, Gricelda James, who supervised Ms. Curry, offered testimony concerning Ms. Curry's psycho-social evaluation reports.

old, and prepared a written report accordingly. The evaluation included an interview of Claimant and Mother, where Ms. Curry ascertained Claimant's family history, financial status, legal status, prior functioning, developmental milestones, school status, vocational training, and current functioning. Claimant and Mother advised that Claimant used to talk on the phone with a friend, but currently had no friends, and preferred being alone. Claimant made eye contact, but sometimes looked straight ahead or down, and appeared to understand every question presented to her. Mother advised that Claimant had suffered physical and/or sexual abuse at the hands of a babysitter, but did not learn of the assault until Claimant was in high school, after Claimant had suffered a "nervous breakdown." Claimant was virtually housebound, and had a history of depression, low self-esteem, flashbacks, and isolation. Ms. Curry recommended, among other things, that Claimant receive psychological and psychiatric evaluations. (SAE 10.)

5. On March 25, 2003, Lisa Doi, Ph.D., performed a psychological evaluation of Claimant, pursuant to the Service Agency's referral, for the purpose of determining Claimant's cognitive and adaptive functioning, and prepared a written report accordingly. According to the report, when Dr. Doi first met Claimant and greeted her, Dr. Doi noted that Claimant had good eye contact, but did not attempt to initiate conversation with Dr. Doi. Dr. Doi obtained Claimant's background information, medical history, family history, educational history, reviewed previous testing, interviewed Claimant and Mother, and conducted behavioral observations of Claimant. Ms. Doi also administered the Leiter International Performance Scale-Revised to test Claimant's cognitive ability, the Wide Range Achievement Test-Revision 3 (WRAT3) to obtain data on Claimant's academic functioning, and gave Mother a rating scale for the Vineland Adaptive Behavior Scales to ascertain Claimant's adaptive functioning. (SAE 7.)

6. Dr. Doi found Claimant's nonverbal intellectual functioning and reading achievement in the average range, and found her adaptive behavior in the deficit range in

the areas of communication skills, daily living skills, and socialization abilities. Dr. Doi concluded that Claimant's mental health needs appeared to significantly affect Claimant's adaptive functioning. Dr. Doi diagnosed Claimant, based on the Diagnostic and Statistical Manual of Mental Disorders, Fourth Edition, Text Revision (DSM-IV-TR), with posttraumatic stress disorder by history, and recommended that Claimant receive mental health treatment, as well as a psychiatric evaluation to address Claimant's reported feelings of sadness and depression, Claimant's history of abuse, and her reluctance to leave her home. Dr. Doi also recommended that Claimant engage in frequent and structured opportunities to interact and socialize with chronological age peers. (SAE 7.) Dr. Doi did not testify at hearing.

B. 2004 UCLA Neuropsychiatric Hospital Psychological Evaluation

7. B.J. Freeman, Ph.D., and Michael Brodsky, M.D., from UCLA Neuropsychiatric Hospital conducted a psychological evaluation of Claimant on April 4, 12, and 19, 2004, when she was 22-years-old, pursuant to a referral from the Los Angeles County Department of Mental Health, and prepared a written report accordingly. Dr. B.J. Freeman and Dr. Brodsky reviewed prior reports and records, obtained Claimant's psychiatric, medical, developmental, and educational history, administered the Wechsler Adult Intelligence Scale-Third Edition (WAIS-3) to test her cognitive abilities, and the Autism Diagnostic Observation Schedule (ADOS) – Module 4 as a diagnostic indicator for autism spectrum disorder. (CE 7.)

8. On the WAIS-3, Claimant's scores ranged from the deficit to average ranges across verbal subtests. On the ADOS, Claimant demonstrated significant social delays and deficits. Although Claimant engaged in conversation, she did not incorporate nonverbal communication such as facial expressions or eye contact. In addition, her ability to incorporate nonverbal communicative or emphatic gestures was poor, she lacked social or emotional reciprocity, and she did not initiate any social overtures. Although Claimant did

not evidence stereotyped language, she exhibited poor insight to emotions and responsibility, especially pertaining to relationships and social interactions. Drs. Freeman and Brodsky also indicated that Claimant lacked varied, spontaneous make-believe play or social imitative play appropriate to development level. (CE 7.)

9. Dr. Freeman and Dr. Brodsky concluded that the results of the ADOS were suggestive of a diagnosis of autistic disorder. Specifically, Dr. Freeman and Dr. Brodsky, based on the DSM-IV-TR, diagnosed Claimant with, among other things, autistic disorder, history of posttraumatic stress disorder, and adaptive functioning deficits. They also stated that Claimant had a substantial handicap in the areas of communication, independent living, mobility in that she had limited capacity to tolerate the anxiety associated with interpersonal interactions outside of her family, self-direction, and economic self-support. As such, Dr. Freeman and Dr. Brodsky concluded that Claimant was eligible for regional center services. They recommended that Claimant receive independent living skills training, vocational rehabilitation accommodations under the Americans with Disabilities Act, and social skills training. (CE 7.) Neither Dr. Freeman nor Dr. Brodsky testified at hearing.

#### C. 2004 Service Agency Psychological Evaluation

10. Gabrielle du Verglas, Ph.D., performed a psychological evaluation of Claimant on August 24, 2004, pursuant to a referral from the Service Agency, when Claimant was 22-years-old, and prepared a written report accordingly. Dr. du Verglas interviewed Mother and Claimant, conducted behavioral observations, and performed the ADOS, as well as a self-drawing exercise. Dr. du Verglas found that Claimant's scores on the ADOS fell in the autism section category, as Claimant demonstrated inconsistent eye contact, had a long-standing history of social difficulties, and had unusual social interactions, but indicated that alternative sources of information such as past history also needed to be

incorporated into Claimant's ADOS score, and that ADOS alone was not sufficient to make a diagnosis. (SAE 6.)

11. Dr. du Verglas, based on the DSM-IV-TR, diagnosed Claimant with obsessive compulsive disorder with poor insight, posttraumatic stress disorder by history, rule-out Asperger's Disorder, rule-out communication disorder, not otherwise specified, low average cognitive abilities, and moderate stressors. Dr. du Verglas recommended, among other things, that Claimant consult with a psychiatrist for further evaluation and treatment for obsessive compulsive disorder. Dr. du Verglas did not testify at hearing. (SAE 6.)

#### D. 2005 UCLA Speech and Neuropsycholinguistic Evaluation

12. Christiane Baltaxe, Ph.D., from UCLA conducted a speech and neuropsycholinguistic evaluation of Claimant on July 26, 2005, August 2, and August 4, 2005, when Claimant was 23-years-old, and prepared a written report accordingly. Dr. Baltaxe obtained Claimant's developmental, medical, family, and educational history, reviewed previous reports and records, and assessed in the areas of receptive and expressive vocabulary, syntax and abstract language, auditory processing, pragmatics and social interaction, articulation, voice, prosody, and fluency. Dr. Baltaxe observed Claimant's intermittent eye contact, flat facial expression, immobile body posture, and restricted prosody. Dr. Baltaxe found Claimant's receptive vocabulary in the low normal range, and her expressive language below normal for her age. Claimant demonstrated difficulties with understanding the fine nuances of language, interpreted language in a literal and concrete manner, and demonstrated significant deficits in remote memory, thinking, and reasoning. (CE 5.)

13. Dr. Baltaxe concluded that, overall, Claimant's language, auditory processing, abstract language and reasoning, and her social communication deficits translated to a substantial disability in communication, learning, self-direction, economic self-sufficiency, and independent living skills, and believed that these factors, combined with her diagnosis

of autistic disorder, made Claimant eligible for regional center services. Dr. Baltaxe recommended that Claimant receive communication skills and auditory processing training, accommodations with respect to future educational plans, vocational rehabilitation, and other areas related to independent living skills. (CE 5.) Dr. Christiane Baltaxe did not testify at hearing.

#### E. 2006 Independent Psychological Evaluation

14. Kyle Pontius, Ph.D., performed a psychological assessment of Claimant on March 25, 2006, April 9, 2006, and May 13, 2006, when Claimant was 24-years-old, and prepared a written report accordingly. Dr. Pontius reviewed previous reports and records, interviewed Mother, made community observations, and administered tests related to adaptive behavior, intelligence, achievement, memory, and executive functioning. The results of Claimant's adaptive behavior assessment (i.e, the Adaptive Behavior Assessment Scales – Second Edition (ABAS-II)) were, overall, similar to persons with moderate to mild mental retardation. (CE 4.)

15. Dr. Pontius noted that the severity of some of the autistic symptoms Claimant exhibited was due, in part, to her obsessive compulsive disorder, such as her impairment to initiate or sustain a conversation, and some of her ritualistic behavior to avoid germs. While Dr. Pontius conceded that Claimant demonstrated significant deficits in social interaction and communication that were at the core of autism spectrum disorders, Dr. Pontius declined to diagnose Claimant with autism disorder, and instead diagnosed Claimant with pervasive developmental disorder, not otherwise specified, as he concluded Claimant best met the criteria for that disorder. (CE 4.)

16. Dr. Pontius also diagnosed Claimant with obsessive compulsive disorder, posttraumatic stress disorder, and problems related to the social environment. Dr. Pontius concluded that Claimant's diagnoses and combined symptoms significantly impacted her adaptive functioning, making her substantially disabled in the areas of self-direction,

capacity for independent living, and economic self-sufficiency. Dr. Pontius also opined in his report that Claimant's disability would last indefinitely, and would, thus, require significant supportive services over the course of her life. Dr. Pontius recommended that Claimant enroll in a day program structured for persons functioning at her level, continued psychiatric treatment for her obsessive compulsive disorder and posttraumatic stress disorder, receive independent living skills training, receive training in safety awareness, and noted Claimant would benefit from Department of Rehabilitation services. Dr. Pontius did not testify at hearing. (CE 4.)

#### F. 2007 Service Agency Psycho-Social and Psychological Evaluations

17. Ms. Curry conducted another psycho-social evaluation of Claimant on August 15, 2007, and prepared a written report accordingly. Ms. Curry interviewed Claimant and Mother separately to ascertain Claimant's family history, financial status, legal status, prior functioning, developmental milestones, school status, vocational training, and current functioning. Claimant reported that she preferred to be alone, and did not participate in family outings. Claimant made eye contact, but looked away when trying to formulate answers to Ms. Curry's questions. Claimant said that change was hard for her, and that it was difficult to get into a new routine. Claimant preferred black clothing. Claimant advised that she had friends when she was younger, but did not know how to keep friends. Claimant discussed how she was afraid of germs. Mother reported that Claimant's needs dominated the household. (SAE 9.)

18. Ann Walker, Ph.D., performed a psychological evaluation of Claimant on June 20, 2007, pursuant to a referral from the Service Agency, when Claimant was 25-years-old, and prepared a written report accordingly. Dr. Walker administered the ADOS, the Autism Diagnostic Interview-Revised (ADI-R), the Gilliam Autism Rating Scale – 2nd Edition (GARS-2), the Vineland Adaptive Behavior Scale-2nd Edition (Vineland II), the Test of Nonverbal



Intelligence-3rd Edition (TONI-3), the Wide Range Achievement Test-4th Revision (WRAT-4), a mental status exam, conducted a clinical interview, and reviewed records. (SAE 5.)

19. During the ADOS, Claimant's social overtures towards Dr. Walker were warm, friendly, appropriate, and she showed good, reciprocal, social communication, as well as appropriate gestures and facial expressions. Claimant made good eye contact with Dr. Walker. On the ADI-R and GARS-2, Mother reported that Claimant was slow to warm up to children during her younger years, but engaged in cooperative, interactive, imitative and imaginary play when she was in preschool, and showed no significant delays in language skills development when she was under three-years-old. Claimant had become more introverted and withdrawn at the age of eight. (SAE 5.)

20. Dr. Walker concluded that Claimant met the diagnostic criteria for compulsive obsessive disorder, as a result of her obsessive thoughts concerning tsunamis and illnesses, and her compulsive behavior concerning dirt and germs. She also concluded that Claimant suffered from posttraumatic stress disorder as a result of her recollections of sexual and physical abuse she experienced at five-years-old, and of the sudden flashbacks of those memories. Moreover, Dr. Walker concluded that Claimant did not meet the diagnostic criteria for a diagnosis of autism, as Claimant tested in the non-autistic range in all areas on the ADOS, and on the ADI-R, and scored in the unlikely probability of autism range on the GARS-2. (SAE 5.)

21. Even though Dr. Walker conceded that Claimant showed social isolation and social estrangement that was consistent with autism, Dr. Walker noted that social isolation and estrangement found in autism must present prior to the age of three years, and Claimant's did not develop those symptoms until she was older, after the sexual abuse. In addition, Claimant did not show a history of significant delays in language skills development, and noted Claimant did not demonstrate restricted or stereotyped patterns of interests prior to the age of three. Dr. Walker recommended that Claimant receive a

psychiatric evaluation, and long-term psychotherapy, to address her obsessive compulsive disorder and posttraumatic stress disorder. (SAE 5.) Dr. Walker did not testify at hearing.

#### G. 2008 Independent Speech and Language Evaluation

22. On May 8, 2008, speech and language pathologists at the Robert L. Douglas Speech-Language Clinic Claimant performed a speech and language assessment on Claimant, when she was 26-years-old, and prepared a written report accordingly. Claimant was tested in the areas of speech, language form and content, language use (pragmatics), and cognition. The report indicated that Claimant's language impairments were most evident in the areas of pragmatics, due to her limited conversational abilities to initiate or elaborate on responses, and of language processing, divided attention, working memory, word-finding, and problem solving. The report recommended that Claimant receive speech and language intervention in the areas of pragmatic social skills, language processing, and working memory. (CE 3.) No one from Robert L. Douglas Speech-Language Clinic testified at hearing.

#### H. 2010 Independent Psychological Evaluation

23. Sarita Freedman, Ph.D., conducted a clinical evaluation of Claimant on March 23 and 30, 2010, and on April 1, 2010, when Claimant was 28-years-old, and prepared a written report accordingly. Dr. Freedman's noted that Claimant had been diagnosed several times with autism spectrum disorder, while three evaluations from the Service Agency disagreed with those diagnoses. Dr. Freedman indicated in her report that the purpose of her evaluation was to analyze the information from all previous evaluations, compare the data to the current evaluation, and determine an appropriate diagnosis for Claimant. Dr. Freedman further stated that without services and supports, Claimant would not be able to function independently; therefore, the evaluation would help determine the most beneficial intervention programs for Claimant. (CE 2.)

24. Dr. Freedman administered the Pervasive Developmental Disorders Screening Test-II (PDDST-II), ADOS, ADI-R, Behavior Rating Inventory of Executive Function (BRIEF) Self-Report Form, the BRIEF Informant Form, the Adaptive Behavior Assessment System-II (ABAS-II) Adult Form, Sensory Responsiveness Inventory, and the Listening Checklist for Children and Adolescents. (CE 2.)

25. On the ADOS, in the area of language and communication, Claimant exhibited peculiarities in prosody (i.e., sing-song tone of voice), enunciated her words very precisely with the same intonation, offered personal information only when asked, rarely asked Dr. Freedman about her own thoughts, and was limited in her ability to interact reciprocally. In the area of reciprocal social interaction, Claimant's eye contact was inconsistent, and her facial expressions were very limited. Claimant appeared to enjoy interacting with Dr. Freedman, but exhibited extremely limited insight into relationships, including the impact of her own actions on others. In the area of stereotyped behavior and restricted interests, Claimant exhibited interest in sensory examination of her fingers, and other than carrying hand sanitizer, did not exhibit compulsions or rituals. Dr. Freedman also indicated that Claimant lacked varied, spontaneous make-believe play or social imitative play appropriate to development level. Dr. Freedman found that Claimant met the cutoff score for the criteria of autism. (CE 2.)

26. After considering the results of all the tests she administered to Claimant, Dr. Freedman's diagnostic impressions, based on the DSM-IV-TR, were that Claimant had autistic disorder, obsessive compulsive disorder with poor insight, cognitive disorder, not otherwise specified (executive dysfunction), learning disorder, not otherwise specified (by report), a history of posttraumatic stress disorder (by report), sensory integration disorder, extreme delays in adaptive functioning, social problems, and receptive and expressive language delays that placed Claimant at risk for harm because of her lack of awareness of danger in the community. (CE 2.)

27. Dr. Freedman noted that all of the psychological evaluation reports prepared by the Service Agency contained inconsistencies, errors, and omissions in the area of Claimant's developmental history, as the Service Agency reports relied only on Mother's parental report, and used no other means to ascertain Claimant's early development, particularly in the area of language development. Dr. Freedman noted that two speech and language reports performed on Claimant as a young adult showed that Claimant had language impairments, specifically receptive and expressive language disorders, and contended that individuals do not suddenly develop such disorders. Rather, Dr. Freedman asserted that, based on her review of teachers' reports contained in Claimant's early school records, which stated that Claimant needed to improve her use of oral language, coupled by Claimant's inability to hold a reciprocal conversation at her current age, it was "impossible to imagine or suggest that [Claimant] ever could, and [then] suddenly [lose] the skill without there being a significant reason (i.e., head injury)." (CE 2.)

28. Dr. Freedman recommended that Claimant re-apply for eligibility as a regional center consumer, receive psychiatric and psychological treatment, receive independent living skills training, social skills training, occupational therapy to address Claimant's sensory motor dysfunction, and receive Department of Rehabilitation Services. (CE 2.) Dr. Freedman did not testify at hearing.

///

#### I. 2012 ASD Consultancy Report

29. Monique Willis, MS, from ASD Consultancy, is a licensed marriage and family therapist who conducted an assessment of Claimant when Claimant was 29-years-old, and prepared a written report dated September 14, 2012. Ms. Willis, who testified at hearing, specializes in the treatment of persons with autism spectrum disorder, and provided therapy to Claimant from 2009 to 2012, to address "autistic symptoms that affect[ed] [Claimant's] ability to function on a daily basis." Ms. Willis received her bachelor's degree

in psychology and social behavior from the University of California at Irvine in 2001, her master's degree in marriage and family therapy from Loma Linda University in 2004, and is currently earning her doctorate of science in marriage and family therapy. Her dissertation is in the area of autism in minority families. She concurrently works as a licensed marriage and family therapist for ASD Consultancy, and maintains her own private practice. Over the course of her career, Ms. Willis has worked with approximately 20 autistic clients on a long-term basis. (CE 1; Testimony of Ms. Willis.)

30. Ms. Willis reviewed Claimant's records and noted Claimant had been diagnosed with autism in April 2004 by Dr. Michael Brodsky and Dr. B.J. Freeman, based on results gathered from ADOS and DSM-IV-TR. In addition, Claimant's autism diagnosis was confirmed by Dr. Pontius in May 2006. Ms. Willis observed behaviors in Claimant that were consistent with autism. For example, Claimant's hair was inappropriate for her age and culture, in that it was neither properly groomed nor washed, and that Claimant made only intermittent eye contact, and sometimes wanted to wear sunglasses to avoid eye contact. Claimant wore the same clothing repeatedly, no matter what the weather was, and would bring her hand sanitizer to her sessions, as she had a preoccupation with germs. She also noted, through her conversations with Mother and Claimant, Claimant could not be trusted unattended to cook, as she often forgot to turn off the burners on the stove, and could not be trusted to do laundry alone, as Claimant often overloaded the washing machine with clothes or detergent. Claimant was rigid, and showered inconsistently, because she only wanted to shower on certain days. In addition, Claimant could complete multi-step directions only when fixated on a preferred task, such as researching the bible. Ms. Willis found Claimant's receptive and reciprocal communication skills to be low, and noted that Claimant lacked the ability to determine when someone was her friend or not. Claimant ceased attending her counseling sessions with Ms. Willis after reading something

on the internet that suggested that seeking counseling was an affront to Claimant's religion. (CE 1; Testimony of Ms. Willis.)

31. Ms. Willis' impression of Claimant was that she suffered from obsessive compulsive disorder and autism. She contended that Claimant had been diagnosed with autism late, and attributed the late diagnosis of autism to the fact that autistic people from lower socioeconomic households were often underdiagnosed or often received late diagnosis, as set forth in research studies, and that minorities of lower socio-economic status received autism diagnoses four years later than their white counterparts. Ms. Willis also opined that Claimant's failure to receive early intervention for her autism probably hindered her ability to function socially and independently at a higher level. (CE 1; Testimony of Ms. Willis.)

32. Ms. Willis concluded Claimant would not be able to apply for and maintain a job without support, and was unable to live independently, as she was unable to attend to financial obligations, make and keep appointments, adhere to a medication regimen, and manage the day-to-day tasks necessary for independent living. Ms. Willis recommended that Claimant receive individual and family therapy, training to help build social relationships, and regional center services and supports related to independent living, safety, and self-help skills. (CE 1; Testimony of Ms. Willis.)

#### J. 2013 Psycho-Social Assessment by Raquel Vargas

33. Pursuant to Claimant's most recent request for regional center services, the Service Agency's Intake Coordinator, Raquel Vargas, B.A., conducted a psycho-social assessment of Claimant on January 7, 2013, when Claimant was 30-years-old, and prepared a written report accordingly. Ms. Vargas, who testified at hearing, has conducted approximately 700 assessments in the three and one-half years she has been an intake service coordinator. (SAE 8; Testimony of Ms. Vargas.)

34. Ms. Vargas interviewed Claimant and Mother collectively to ascertain Claimant's family history, financial status, legal status, prior functioning, developmental milestones, school status, vocational training, and current functioning. Claimant resided in the living room of her family's home, because she could no longer share a room with her younger sister, due to Claimant's dislike of lights, noise, or anyone touching her things. During the interview, Claimant removed a large bottle of hand sanitizer from her purse, placed it on the table, and explained she had an issue with germs and consequently disliked people getting close to her or to her things. Also during the interview, Mother and Claimant often argued about Claimant's self-help skills, as Mother felt Claimant could not do many things, while Claimant felt otherwise. For example, Mother felt Claimant could not comb her hair properly, while Claimant believed she combed her hair adequately. Claimant generally wore the same clothing, and would not wear clothing picked by Mother, to which Claimant responded, "I rather pick out my own clothing. Would you like for me to pick your clothing?" In addition, on those rare occasions when Claimant went out into the community, she had a tendency to do so without telling Mother, which greatly concerned Mother due to Claimant's lack of safety awareness and gullibility. Claimant, on the other hand, felt she was "grown," and, therefore, did not need to tell Mother when she wanted to go out into the community. Mother also felt Claimant was very easily manipulated by others, as Claimant often gave money to homeless people on the street when they asked, while Claimant felt that giving money was a godly thing to do. Both agreed that Claimant did not have any friends, preferred to stay at home and use the internet, and hated lights and noise. Claimant did not like to watch television or listen to the radio, but would watch *Stand By Me* repeatedly. Claimant had been receiving therapy services through ASD Consultancy, but Claimant refused to receive any further services from them, because she believed her faith would help her, not therapy. (SAE 8; Testimony of Ms. Vargas.)

35. Ms. Vargas recommended, among other things, that Claimant receive a psychological evaluation, and that she should consider mental health services. Ms. Vargas also recommended that the Service Agency determine whether Claimant was eligible to receive regional center services. (SAE 8; Testimony of Ms. Vargas.)

K. 2013 Psychological Assessment by Dr. Beatrix Wagner

36. On January 9, 14, 23, and 28, 2013, Beatrix Wagner, Psy.D., who testified at hearing, conducted a psychological assessment of Claimant when Claimant was 30-years-old, and prepared a written report accordingly. The purpose of the assessment was to determine Claimant's level of cognitive and adaptive functioning, and to assess for autism. (SAE 4; Testimony of Dr. Wagner.)

37. Dr. Wagner interviewed Mother and Claimant separately. Mother reported a number of behavioral concerns, such as Claimant's dislike of noise and lights, intolerance of people, including family members, an insatiable need for privacy, and her frequent use of hand sanitizer to sanitize her hands or possessions. Mother advised that Claimant was easily manipulated, became fixated on things like tsunamis and religion, kept her eating utensils separate from the other family members' utensils, and would bathe only when all family members were away from the house. Mother described Claimant's independent living skills as requiring work, as Claimant was unable to prepare home-cooked meals, had trouble doing laundry, and was unable to mop, clean the bathroom, or clean out the refrigerator. When using public transportation, Claimant was capable of taking only one bus at a time, as she was unable to transfer to other buses. Socially, Claimant currently had no friends, but, while in high school, Claimant had a friend before Claimant had become fixated on religion, had friends in elementary school, and had one friend in junior high school. Claimant conceded she did not know how to make friends, and had poor social skills. Claimant did report, however, that she liked to play video games with her brother, as well as board games, such as *Sorry* and *The Game of Life*, and card games such as *Uno*.



Claimant was well-spoken, articulate, and engaged in a back and forth conversation with Dr. Wagner that went smoothly. Finally, both Mother and Claimant reported that Claimant would often become anxious, which heightened in her final year of high school, when Claimant became overwhelmed by the work load. She also experienced difficulty transitioning to six classes during the school day, and grasping the material. Consequently, Claimant had to complete her 12th grade year in an independent study program (homeschool) where she could work at her own pace. (SAE 4; Testimony of Dr. Wagner.)

38. During every session of the psychological assessment, Dr. Wagner observed that Claimant wore the same blue sweat suit and carried a large bottle of hand sanitizer. Claimant reported that she frequently used hand sanitizer to avoid getting germs and getting sick, and that she frequently became anxious and nervous when people were around her, or when she worried about whether she was Christian enough. Claimant made eye contact, and was able to answer questions appropriately. Dr. Wagner observed no stereotyped or repetitive speech, no preoccupations or circumscribed patterns of interest, no nonfunctional routines or rituals, no preoccupation with parts of objects, and no stereotyped or repetitive motor mannerisms in Claimant. Claimant demonstrated social overtures and gestures during her sessions with Dr. Wagner. Dr. Wagner saw no evidence of psychotic process, suicidal or homicidal ideation, and observed that Claimant was oriented to person, place, time, and situation. (SAE 4; Testimony of Dr. Wagner.)

39. Dr. Wagner administered the Wechsler Adult Intelligence Scale – Fourth Edition (WAIS-IV) to assess Claimant’s cognitive functioning. Claimant required an extremely long time to answer untimed test questions, as Claimant wanted to ensure she answered the questions correctly. Claimant scored in the average intellectual range across verbal and non-verbal domains, with the exception of processing speed, suggesting, overall, Claimant’s cognitive functioning was in the average intellectual range for her age. (SAE 4; Testimony of Dr. Wagner.)

40. Dr. Wagner completed the ADOS to determine whether Claimant met the diagnostic criteria for autistic disorder. Dr. Wagner determined that Claimant scored below the cutoff for autistic disorder in the areas of reciprocal social interaction and communication, in that Claimant exhibited no stereotyped or repetitive speech, used gestures to communicate, exhibited no preoccupations or circumscribed patterns of interest, exhibited no adherence to nonfunctional routines or rituals, exhibited no stereotyped or repetitive motor mannerisms, and exhibited no preoccupations with parts of objects. (SAE 4; Testimony of Dr. Wagner.)

41. Dr. Wagner administered the University of Hamberg Obsession-Compulsion Inventory Screening Form to determine whether Claimant had any clinically significant obsessions or compulsions. Dr. Wager determined Claimant had clinically significant obsessions and compulsions in the areas of hand-washing, repositioning table cloths or rugs, of repeating to herself a sentence already spoken, counting during activities, checking cleanliness of public seats before sitting down, and of thinking of impending sicknesses or blindness. (SAE 4; Testimony of Dr. Wagner.)

42. Dr. Wagner administered the Vineland Adaptive Behavioral Scale – II (VABS-II), where, based on Claimant’s report, Claimant fell within the low (severe deficit) range in the areas of communication, self-care, learning, self-direction, capacity for independent living, and economic self-sufficiency. Mother rated Claimant’s adaptive skills similarly. (SAE 4; Testimony of Dr. Wagner.)

43. After considering her interviews with Claimant and Mother, her behavioral observations of Claimant, and the results of the tests administered to Claimant, Dr. Wagner concluded, based on the DSM-IV-TR, that Claimant met the diagnostic criteria for anxiety disorder, not otherwise specified. Dr. Wagner also concluded that Claimant did not meet the diagnostic criteria for autistic disorder based on her observations and the results of the ADOS. Dr. Wagner recommended that Claimant be evaluated by a psychiatrist to

fully assess for symptoms of anxiety disorder, and to determine whether medication would be appropriate to reduce Claimant's symptoms. Dr. Wagner also indicated that Claimant would benefit from independent living skills training to increase her independence, individual therapy to address concerns regarding her feelings of worry and anxiety, and social skills training to increase her social skills. (SAE 4; Testimony of Dr. Wagner.)

44. Dr. Wagner did not review any prior assessment reports before conducting her assessment of Claimant, because she preferred to perform assessments without the influence of prior assessments, and preferred to approach assessments with a "blank slate." At trial, Dr. Wagner disagreed with any prior report presented to her that indicated that Claimant suffered from autistic disorder. Dr. Wagner believed Claimant did not meet the criteria for autistic disorder in the DSM-IV-TR, in that Claimant used eye contact, gestures, and modulated appropriately, did not demonstrate a lack of interest in sharing enjoyment, interests or achievements with other people, but rather lacked the understanding for how to communicate with others in order to develop friendships. Also, Claimant seemed to understand social or emotional reciprocity. In addition, Claimant articulated herself well and appeared to understand Dr. Wagner during her communications with Claimant, and engaged in no repetitive or idiosyncratic behavior during their sessions. Moreover, Claimant engaged in no repetitive behavior, such as flapping, twisting, or finger tapping. (SAE 4; Testimony of Dr. Wagner.)

## 2013 INTERDISCIPLINARY TEAM MEETING

45. During the Service Agency's Interdisciplinary Team meeting on April 16, 2013 to determine Claimant's eligibility for regional center services, the team considered the psychological report prepared by Dr. Wagner, the psycho-social report completed by Ms. Vargas, the independent report prepared by Ms. Willis of ASD Consultancy, the other reports set forth in this Decision, and school records. (SAE 1; Testimony of Dr. Michelle Cuevas.)

46. At the meeting, after considering all of the reports, the team determined that Claimant had a psychiatric disorder, but no developmental disorder, as evidenced by the Service Agency's psychological reports. In addition, the team concluded that Claimant was not substantially disabled, based on their belief that Claimant had the ability to function in major life activities, but did not as a result of her psychiatric impairment. (SAE 1; Testimony of Dr. Michelle Cuevas.)

#### MOTHER'S TESTIMONY

47. Mother first learned about autism when Claimant was in high school, when Mother discovered that Claimant's younger brother had autism. Thinking back, she believed that Claimant showed the signs of autism as a baby, but because she was a young mother, and had no knowledge about autism, she did not know to raise the issue. Some of these signs included Claimant's tendency to be socially aloof, incessant tantrumming, intermittent eye contact, the inability to tolerate lights and crowds, and later, her difficulty following directions, and understanding her school work. Many times, Mother ended up completing Claimant's homework for her, just so everyone could go to bed. Claimant also watched the movie *Stand By Me* over and over again, from the moment she awoke in the morning, until the time she went to bed in the evening. Claimant had been living in the living room of their family home since she was in sixth grade, due to her inability to co-exist with others, because when she and her younger sister shared a room, Claimant often reacted badly when her sister would turn on the lights or try to listen to music. Claimant also refused to bathe unless the house was free of people, and she continues to adhere to that rule today. In addition, Claimant lacks the motivation to leave the house, opting to remain inside, and surf the internet, and not interact with anyone. She has never held a job and has no job skills. (Testimony of Mother.)

48. Mother expressed great concern over Claimant's life skills. Although Claimant can use the microwave to warm prepared meals, Claimant cannot be trusted to

prepare home-cooked meals on her own, as she fails to appreciate the dangers associated with the stove. She also fails to appreciate dangers outside of the home, as they relate to people and situations. Mother finds Claimant very gullible, and easily manipulated by strangers. She also has great difficulty following multistep instructions, cannot tolerate taking trips where she has to take more than one bus to reach her destination, has difficulty understanding how to budget money, count change, follow a medication regimen independently, and many other tasks required for daily living, whether at home or out in the community. Mother wants Claimant to receive services to help her achieve independence. (Testimony of Mother.)

## DSM-V

49. The DSM-V was released in May 2013. As of the time of hearing, the Service Agency had not received authorization from the Department of Developmental Services to use the DSM-V in its psychological evaluations. (Testimony of Dr. Sandra Watson.)

## LEGAL CONCLUSIONS

1. Claimant bore the burden of proof of establishing she was eligible for regional center services. The standard of proof was a preponderance of the evidence. As set forth in more detail below, Claimant failed to sustain her burden.

2. Welfare and Institutions Code section 4512 states:

(a) "Developmental disability" means a disability that originates before an individual attains age 18 years, continues, or can be expected to continue, indefinitely, and constitutes a substantial disability for that individual. As defined by the Director of Developmental Services, in consultation with the Superintendent of Public Instruction, this term shall include mental retardation, cerebral palsy, epilepsy, and autism. This term shall also include disabling conditions found to be closely related to mental retardation or to require treatment similar to that required for

individuals with mental retardation, but shall not include other handicapping conditions that are solely physical in nature.

3. Welfare and Institutions Code section 4512, subdivision (l) states:

(l) "Substantial disability" means 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.

(See also Cal. Code Regs., tit. 17, § 54001.)

4. Here, based on the credible testimony of Mother, buttressed by Claimant's low adaptive behavior functioning determined in many of the psychological evaluation reports, the evidence establishes that Claimant is substantially disabled by her condition, given her significant functional limitations in three major life activities. Specifically, in the area of self-direction, Claimant lacks motivation to leave the house, opting, instead, to remain indoors and surf the internet, and not interact with anyone. In addition, Claimant has demonstrated a lack of capacity for independent living, in that she fails to understand finances, appreciate the dangers associated with using the stove, has limited public transportation skills, and cannot follow a medication regimen independently, to name a few. Moreover, Claimant lacks economic self-sufficiency, in that she has never held a job, lacks vocational skills, and lacks the motivation to become self-sufficient. (Factual Findings 47 - 48.)

5. However, the issue at hand is whether Claimant's substantial disability emanates from a developmental disability within the meaning of Welfare and Institutions Code section 4512, subdivision (a). The parties did not argue that Claimant had mental retardation, cerebral palsy, epilepsy, or a condition found to be closely related to mental retardation or to require treatment similar to persons with mental retardation. The question is whether Claimant has autism. Consequently, this Decision solely considered autism as the contended basis of Claimant's eligibility.

6. All psychological evaluation reports admitted into evidence referenced the diagnostic criteria for autism found in the DSM-IV-TR. The DSM-IV-TR, which is published by the American Psychiatric Association, declares that a person has autism when he or she meets the following:

(A) A total of six (or more) items from (1), (2), and (3), with at least two from (1), and one each from (2) and (3):

(1) qualitative impairment in social interaction, as manifested by at least two of the following:

(a) marked impairment in the use of multiple nonverbal behaviors such as eye-to-eye gaze, facial expression, body postures, and gestures to regulate social interaction

(b) failure to develop peer relationships appropriate to developmental level

(c) a lack of spontaneous seeking to share enjoyment, interests, or achievements with other people (e.g., by a lack of showing, bringing, or pointing out objects of interest)

(d) lack of social or emotional reciprocity

(2) qualitative impairments in communication as manifested by at least one of the following:

- (a) delay in, or total lack of, the development of spoken language (not accompanied by an attempt to compensate through alternative modes of communication such as gesture or mime)
- (b) in individuals with adequate speech, marked impairment in the ability to initiate or sustain a conversation with others
- (c) stereotyped and repetitive use of language or idiosyncratic language
- (d) lack of varied, spontaneous make-believe play or social imitative play appropriate to developmental level
- (3) restricted repetitive and stereotyped patterns of behavior, interests, and activities, as manifested by at least one of the following:
  - (a) encompassing preoccupation with one or more stereotyped and restricted patterns of interest that is abnormal either in intensity or focus
  - (b) apparently inflexible adherence to specific, nonfunctional routines or rituals
  - (c) stereotyped and repetitive motor mannerisms (e.g., hand or finger flapping or twisting, or complex whole-body movements)
  - (d) persistent preoccupation with parts of objects
- (B) Delays or abnormal functioning in at least one of the following areas, with onset prior to age 3 years: (1) social interaction, (2) language as used in social communication, or (3) symbolic or imaginative play.
- (C) The disturbance is not better accounted for by Rhett's Disorder or Childhood Disintegrative Disorder.

7. Here, when applying the diagnostic criteria set forth in DSM-IV-TR, Claimant failed to sustain her burden of establishing that she met the criteria for autism. Specifically, Claimant did not provide evidence more persuasive than that provided by the Service Agency concerning whether Claimant had a marked impairment in the use of multiple nonverbal behaviors (i.e., item (A)(1)(a)). The evidence consisted of conflicting reports and



testimony on this issue. Claimant relied on the psychological evaluation report prepared by Dr. Freeman and Dr. Brodsky in 2004, which stated, in essence, that Claimant did not incorporate nonverbal communication such as facial expressions or eye contact, and demonstrated a poor ability to use emphatic gestures. Claimant also relied on the psychological report prepared by Dr. Freedman in 2010, who stated that Claimant demonstrated inconsistent eye contact and very limited facial expressions. Moreover, Claimant relied on the testimony and 2012 report of marriage and family therapist, Monique Willis, who reported that Claimant made only intermittent eye contact, and sometimes wanted to wear eye glasses to avoid eye contact. (Factual Findings 7 – 9, 23 – 28; 29 – 32.)

8. However, the testimony and 2013 psychological report prepared by Dr. Wagner demonstrated that Claimant used eye contact and modulated appropriately during her four evaluation sessions. Dr. Wagner's testimony is consistent with the 2003 reports prepared by Dr. Doi and Ms. Curry, and the 2007 report prepared by Dr. Walker, who each stated Claimant made good eye contact. In addition, Dr. Wagner and Dr. Walker reported that Claimant used appropriate gestures and facial expressions during their sessions with Claimant. No author of the reports in Legal Conclusions 7 and 8 testified at hearing to answer questions and/or elaborate on their reports, with the exception of Dr. Wagner and Ms. Willis, and no witness who appeared at hearing adequately discredited any reports admitted into evidence on this issue. As such, when considering and comparing the reports and testimony of Dr. Wagner and Ms. Willis, more weight is afforded to Dr. Wagner concerning this item and others. Presumably, as a licensed clinical psychologist, Dr. Wagner is trained to administer pertinent psychological tests, such as the ones she listed in her report, and to make key observations during her psychological evaluations. Ms. Willis, on the other hand, is not a licensed clinical psychologist, but rather a licensed marriage and family therapist, who administered no tests to Claimant, and

mentioned nothing in her report concerning eye contact, facial expressions, gestures, or any other observations related to item (A)(1)(a). Given these factors, Claimant failed to persuasively show that she had marked impairment in the use of multiple nonverbal behaviors (i.e., item (A)(1)(a)). (Factual Findings 4 – 6; 17 – 21; 29 – 32; 36 – 44.)

9. In regard to item (A)(1)(b), which requires that an individual fail to develop peer relationships appropriate to developmental level, Claimant failed to establish that she met that item. The uncontroverted evidence showed that Claimant developed several friendships during her school years. While Claimant had not developed any friendships since high school, Dr. Wagner credibly testified that Claimant did not necessarily demonstrate a lack the interest to develop friendships, but rather seemed not to understand how to communicate in a way to maintain friendships. Given these factors, Claimant failed to persuasively show that she failed to develop appropriate peer relationships (i.e., item (A)(1)(b)). (Factual Findings 36 – 44.)

10. In regard to item (A)(1)(c), which requires that an individual lack the spontaneous seeking to share enjoyment, interests, or achievements with other people, Claimant failed to establish that she meets that criterion. While the evidence established that Claimant preferred to be alone and not interact with others, the bulk of the psychological evaluations lacked any reference to Claimant sharing enjoyment, interests, or achievements with other people. However, the comprehensive report of Dr. Wagner showed, per Claimant's representations, that Claimant liked to play video games with her brother, as well as board and card games. Such interaction suggests that Claimant does not lack interest in sharing enjoyment with others. As such, Claimant failed to show that she lacked the spontaneous sharing of enjoyment, interests, or achievements with other people (i.e., item (A)(1)(c)). (Factual Findings 36 – 44.)

11. In regard to item (A)(1)(d), which requires the lack of social or emotional reciprocity, Claimant did not provide evidence more persuasive than that provided by the

Service Agency concerning this criterion. The evidence again consisted of conflicting reports and testimony on this issue, with Claimant again relying on the psychological evaluation report prepared by Dr. Freeman and Dr. Brodsky. Specifically, Dr. Freeman and Dr. Brodsky stated that Claimant lacked social or emotional reciprocity as evidenced from the results of the ADOS. Similarly, the psychological report prepared by Dr. Freedman stated that Claimant exhibited extremely limited insight into relationships, including the impact of her own actions on others. In addition, Ms. Willis found Claimant's receptive and reciprocal communication skills to be low. (Factual Findings 7 – 9; 29 – 32.)

12. However, Dr. Wagner credibly testified and/or included in her report, that Claimant demonstrated social overtures toward her, and engaged in a smooth back and forth conversation with her. This is consistent with the report of Dr. Walker, who stated that during the ADOS, Claimant demonstrated warm and friendly social overtures toward Dr. Walker, and showed good, reciprocal, social communication. Even Dr. Freedman, who disagreed with previous evaluations prepared for the Service Agency, reported that Claimant appeared to enjoy interacting with her. Given these factors, Claimant failed to show that she lacked social and emotional reciprocity (i.e., item (A)(1)(d)). (Factual Findings 18 – 21; 25; 36 – 44.)

13. Item (A)(2)(a), which requires a delay in, or total lack of, the development of spoken language, is not applicable to Claimant, as the evidence clearly shows that Claimant uses and understands spoken language. (Factual Findings 4 – 48.)

14. In regard to item (A)(2)(b), which requires a marked impairment in the ability to initiate or sustain a conversation, Claimant did not provide evidence more persuasive than that provided by the Service Agency concerning this criterion. The evidence again consisted of conflicting reports and testimony on this issue, with Claimant again relying on the psychological evaluation report prepared by Dr. Freeman and Dr. Brodsky. Specifically, Dr. Freeman and Dr. Brodsky stated that Claimant lacked the ability to initiate or sustain a

conversation as evidenced from the results of the ADOS, which showed that Claimant had significant social delays and deficits, especially pertaining to social interactions. Similarly, the psychological report prepared by Dr. Freedman stated that Claimant was limited in her ability to interact reciprocally, and believed Claimant never had the ability to hold a reciprocal conversation, by virtue of her inability to hold a reciprocal conversation as an adult. Dr. Freedman believed that individuals did not suddenly lose such a skill without there being a significant reason, such as a head injury. In addition, Ms. Willis found

Claimant's receptive and reciprocal communication skills to be low. Even Dr. Doi noted that Claimant did not initiate conversation with her. (Factual Findings 5; 7 – 9; 23 – 28; 29 – 32.)

15. However, as established by the credible testimony Dr. Wagner, as well as her comprehensive report, Claimant articulated herself well, seemed to understand Dr. Wagner, and scored below the cutoff for autistic disorder in the areas of reciprocal social interaction and communication. This is consistent with Ms. Vargas' observations of Claimant, who stated in her report, as well as during her testimony, that Claimant competently articulated her positions when arguing with Mother about hair, clothing, and the necessity of telling Mother when Claimant wished to go out into the community. While Dr. Doi observed that Claimant did not initiate conversation with her, Dr. Doi's assessment occurred over a decade ago, while Dr. Wagner's occurred only eight months ago, and, therefore, deemed more reliable when considering Claimant's ability to sustain a conversation. Given these factors, Claimant failed to show that she lacked the ability to initiate or sustain a conversation with others (i.e., item (A)(2)(b)). (Factual Findings 33 – 44.)

16. Item (A)(2)(c), which requires stereotyped and repetitive use of language or idiosyncratic language, is not applicable to Claimant, as reports submitted by both

Claimant and Service Agency clearly establish that Claimant does not use stereotyped and repetitive use of language or idiosyncratic language. (Factual Findings 4 – 44.)

17. Similarly, item (A)(2)(d), which requires a lack of spontaneous make-believe play or social imitative play appropriate to developmental level, Claimant did not provide credible evidence to establish that she met this criterion. While the reports of Dr. Freedman and Drs. Freeman and Brodsky include a conclusory statement that Claimant met this criterion pursuant to the results of the ADOS assessment, they neither explained specifically how Claimant demonstrated this item during the ADOS, nor appeared at hearing to elaborate. As such, Claimant failed to establish that she lacks the ability to engage in spontaneous make-believe play or social imitative play appropriate to developmental level. (Factual Findings 7 – 9; 23 – 28.)

18. In regard to items (A)(3)(a) and (A)(3)(b), which require an encompassing preoccupation with one or more stereotyped and restricted patterns of interest that is abnormal either in intensity or focus, and an inflexible adherence to specific, nonfunctional routines or rituals, respectively, Claimant established, as noted in the bulk of the psychological evaluation reports, that she did, in fact, have a preoccupation with germs, which resulted in the excessive use of hand sanitizer, watched *Stand By Me* repeatedly, held very strong religious beliefs, and engaged in a ritual of bathing only when the occupants of her home were gone. However, as established by Dr. Wagner's testimony, it appears that these symptoms emanate from Claimant's obsessive compulsive disorder, and not any possible autism. This position is consistent with Dr. Pontius' conclusion that the severity of Claimant's symptoms was due to her obsessive compulsive disorder. Given these factors, Claimant failed to establish that she met items (A)(3)(a) and (A)(3)(b). (Factual Findings 4 – 44.)

19. As for items (A)(3)(c) and (A)(3)(d), which require stereotyped and repetitive motor mannerisms, and persistent preoccupations with parts of objects, Claimant

submitted no credible evidence demonstrating that she met these criteria. Similarly, Claimant presented no credible evidence demonstrating that she had delays or abnormal functioning, prior to the age of three years, in the areas of social interaction, language as used in social communication, or symbolic or imaginative play. However, in regard to item (C), which requires that the disturbance not be accounted for by Rhett's Disorder or Childhood Disintegrative Disorder, there was no evidence presented suggesting that Claimant's behaviors were due to Rhett's Disorder or Childhood Disintegrative Disorder. (Factual Findings 4 – 44.)

20. In sum, Claimant failed to demonstrate that she meets the criteria for autism, as set forth in the DSM-IV-TR. Notwithstanding this, Claimant contends that, like her, many individuals with autism have psychiatric symptoms that do not form part of the diagnostic criteria for autism, as acknowledged in the DSM-V. As such, Claimant argues that under the DSM-V, her comorbidity of autism, obsessive compulsive disorder, and her other psychiatric diagnoses should have been recognized and applied accordingly. However, all psychological evaluation reports submitted by the parties occurred prior to the release of the DSM-V, as well as the interdisciplinary meeting held by the Service Agency concerning Claimant's eligibility. As such, Claimant's argument fails. Given the above, Claimant failed to sustain her burden of proving she has autism, and is eligible for regional center services. However, this ruling is made without prejudice, should the Claimant wish to reapply for regional center services under DSM-V.

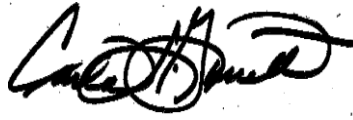
21. Cause does not exist to grant Claimant's appeal, as set forth in Factual Findings 1-49, and Legal Conclusions 1-20.

///

## ORDER

Claimant's appeal is denied.

Date: September 19, 2013

A handwritten signature in black ink, appearing to read 'Carla L. Garrett', with a stylized, cursive script.

CARLA L. GARRETT

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.