

BEFORE THE  
OFFICE OF ADMINISTRATIVE HEARINGS  
STATE OF CALIFORNIA

In the Matter of:

CLAIMANT,

Claimant,

vs.

SAN GABRIEL/POMONA REGIONAL  
CENTER,

Service Agency.

OAH No. 2015070912

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DECISION

Howard W. Cohen, Administrative Law Judge, Office of Administrative Hearings, State of California, heard this matter on August 19, 2016, in Pomona, California.

G. Daniela Santana, Fair Hearing Manager, represented San Gabriel/Pomona Regional Center (SGPRC or Service Agency).

Claimant's parents represented claimant, who was not present.<sup>1</sup>

Oral and documentary evidence was received. The record was held open through September 23, 2016, to allow the parties to file briefs. The Service Agency filed a brief, which was marked for identification as Exhibit 15. Claimant filed a brief, which was marked for identification as Exhibit C29.

The record was closed and the matter was submitted for decision on September 23, 2016.

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<sup>1</sup> Family and party titles are used to protect the privacy of claimant and his family.

## ISSUE

Whether claimant is eligible to receive services and supports from the Service Agency under the Lanterman Developmental Disabilities Services Act (Lanterman Act).

## EVIDENCE RELIED UPON

*Documents.* Service Agency's exhibits 1-14; claimant's exhibits C2, C3, C7-C9, C13, C15, C16, C18, C20-C28. *Testimony.* Deborah Langenbacher, Ph.D.; Judith D. Aguilera; Carrie Dilley, Ph.D., claimant's mother; claimant's father; G. Daniela Santana.

## FACTUAL FINDINGS

### PARTIES AND JURISDICTION

1. Claimant is a six-year-old boy. On April 13, 2015, claimant's parents asked the Service Agency to determine whether claimant is eligible for regional center services. The Service Agency conducted a social assessment of claimant on April 21, 2015, and its Autism Clinic assessed claimant for eligibility on May 14, 2015. On June 11, 2015, a Service Agency interdisciplinary team determined that claimant is not eligible for regional center services.

2. By a Notice of Proposed Action and letter dated June 11, 2015, the Service Agency notified claimant's parents that its interdisciplinary team determined that claimant is not eligible for regional center services because he does not have a developmental disability that is substantially handicapping and he does not meet Lanterman Act<sup>2</sup> eligibility criteria.

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<sup>2</sup> The NOPA letter related that, to be eligible under the Lanterman Act, an individual must have one of five specified categories of developmental disability, i.e., intellectual disability, cerebral palsy, epilepsy, and autism, and other conditions similar to intellectual disability. (Ex. 1.) (This fifth category of "other conditions" is defined as "a

3. On July 6, 2015, claimant's father filed a fair hearing request (FHR) to appeal the Service Agency's determination regarding eligibility. He wrote in the FHR that he disagrees with the Service Agency's diagnosis of claimant.

4. The parties unsuccessfully attempted to mediate their dispute, and the matter was set for a hearing to take place on August 31, 2015. The hearing was continued four times: once, at claimant's parents' request, to allow claimant's newly-retained counsel to prepare; second, at both parties' request after mediation, to allow the Service Agency to conduct a further evaluation of claimant; third, at both parties' request, due to witnesses' unavailability; and fourth, at claimant's parents' request, to allow a second mediation in June 2016. This hearing then ensued. All jurisdictional requirements have been met.

#### CLAIMANT'S BACKGROUND AND EVALUATIONS

5. Claimant lives at home with his parents and younger sister.

6. Claimant's preschool teachers referred claimant to Diane M. Danis, M.D., M.P.H., in early 2015 for a neurodevelopmental evaluation. Dr. Danis conducted the evaluation on February 12, 25, and 26, 2015. She interviewed claimant's parents, administered the Mullen Scales of Early Learning, the Autism Diagnostic Observation Schedule (ADOS), Module 3, and the Child Behavior Checklist, and observed claimant at preschool.

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disabling condition closely related to [intellectual disability] or that requires treatment similar to that required by an individual with [intellectual disability]" in Welfare and Institutions Code section 4512, subdivision (a).) The NOPA letter further informed claimant's mother that the disability must originate prior to age 18 and constitute a substantial disability for that individual, and that it may not be solely physical or psychiatric in nature or be the result of a learning disorder.

a. On the Mullen Scales, claimant demonstrated “well developed skills as a visual learner,” but his fine motor skills and receptive and expressive language were “areas of challenge.” (Ex. 3, p. 4.)

b. On the ADOS, Dr. Danis reported only an overall raw score; the score, 18, supported “an autism diagnosis,” according to Dr. Danis. (Ex. 3, p. 4.) She wrote that claimant “used sentences in a largely correct fashion,” though he would occasionally confuse pronouns, and that “[n]one of the speech abnormalities associated with autism in intonation, volume, rhythm or rate were seen. He did not demonstrate any echolalia, nor did he have any stereotyped or idiosyncratic use of words or phrases. However, he did repetitively bring up the topic of robots . . . .” (*Ibid.*) She reported that claimant’s conversation was not reciprocal, his eye contact was intermittent, and he “showed no or minimal understanding of emotions in others, and showed very limited insight into typical social relationships.” (*Id.* at p. 5.) Claimant “did demonstrate joint referencing on one occasion, and did demonstrate some creativity and imagination in our play together. [¶] I did not notice any unusual sensory interest in the play materials, nor did I see any self-injurious behavior. I did not see any hand, finger or other complex mannerisms. I did note a definite stereotyped unusual pattern of interest. I did not see any compulsions or rituals.” (*Ibid.*)

c. Claimant’s parents completed the Child Behavior Checklist. Neither of them “endorsed items reflecting a clinically-significant level of concern in any of the problem areas looked at in this evaluation.” (Ex. 3, p. 5.)

d. During her school observation, Dr. Danis noted that claimant engaged in play with one friend in particular, but it was parallel play, with claimant initiating actions and his friend following him. In class, claimant generally followed the teacher’s instructions and appeared to enjoy classroom activities.

7. Dr. Danis diagnosed claimant with autism. She found, applying the DSM 5 diagnostic criteria for autism disorder, that claimant demonstrated (a) persistent deficits in social communication and social interaction, manifested by deficits in (i) social and emotional reciprocity, (ii) nonverbal communicative behaviors used for social interaction, and (iii) developing and maintaining relationships appropriate to developmental level); and (b) restrictive, repetitive patterns of behavior, manifested by (i) stereotyped or repetitive speech/questioning and (ii) highly restricted, fixated interests that are abnormal in intensity and focus. Dr. Danis wrote that claimant "is unusual for a child with autism in that he clearly *does* have social interest and a desire to be with other children." (Ex. 3, p. 8.) She recommended that claimant have a therapeutic aide at preschool, apply for regional center services, participate in a floor-time intervention, and work with a qualified speech and language therapist on building his conversational skills and social understanding.

8. Elizabeth Holguin, SGPRC's Intake Service Coordinator, conducted a social assessment of claimant on April 24, 2015, and recommended that claimant's medical records be obtained, that a psychological evaluation be coordinated through the SGPRC Autism Clinic, and that a team conference then be coordinated to decide whether claimant is eligible for regional center services. Ms. Holguin noted Dr. Danis referred claimant to SGPRC with a diagnosis of autism spectrum disorder, and that claimant's parents agreed to "further testing to confirm this diagnosis and to determine if it is substantially handicapping." (Ex. 5.) Ms. Holguin observed that claimant demonstrated some echolalia, that his answers to questions were off-topic, and that he had not received any prior cognitive testing.

9. Claimant was assessed at SGPRC's Autism Clinic on May 14, 2015. The Autism Clinic assesses individuals for autism and provides program planning and recommendations for services and supports, using an interdisciplinary approach.

Deborah Langenbacher, Ph.D., a staff psychologist who performs evaluations for SGPRC and who sits on the eligibility team, and Judy Aguilera, M.A., a speech and language therapist, performed the assessment.

10. Dr. Langenbacher conducted a review of claimant's records, interviewed claimant's parents and schoolteacher, observed claimant at play, and administered several standardized tests, including the ADOS, Schedule 2 (ADOS-2), Module 3; the Childhood Autism Rating Scale–2ST (CARS-2ST); and the Adaptive Behavior Assessment System–II (ABAS-II).

a. Dr. Langenbacher found that claimant demonstrated significant deficits in social communication on the ADOS-2, though he mostly spoke in sentences and used appropriate language, offered information about himself, and asked questions. He had variable eye contact, did not demonstrate understanding of his own role in interpersonal relationships, and showed limited creativity at play. Claimant "did not demonstrate any stereotyped behaviors or restricted interests during the ADOS-2. [He] scored above the threshold for Autism on the ADOS-2, however, he did not demonstrate stereotyped behaviors or restricted interests, as are required to make a diagnosis of Autism Spectrum Disorder." (Ex. 6, p. 5.) Claimant demonstrated an interest in socializing with others but "his difficulties in verbal communication interfere with his social skills. He will try to initiate with others, and is usually responsive when others approach him."

b. Claimant's teacher reported that claimant "shows interest in other children and wants to play with them, however, he will sometimes miss social cues and his limitations in speech and language interfere with optimal social functioning. He has been making improvements in this area . . . ." (Ex. 6, p. 5.)

c. Dr. Langenbacher wrote that, "[b]ased on observation, record review, parent report, and teacher report, [claimant] does not demonstrate repetitive movements or language usage. He will sometimes insist on 'finishing' things, but does

not otherwise have difficulties with transitions. His teacher indicated that he may question a change to his usual routine, but he is not distressed by such changes. [Claimant] demonstrates some strong interest in certain types of play, but these are not of abnormal intensity or unusual for his age. [Claimant] was said to sometimes be distressed by noises (e.g., vacuum cleaner), but no other sensory processing differences were reported or observed.” (Ex. 6, p. 5.) Dr. Langenbacher asked claimant’s father several times for examples of instances in which claimant demonstrated restrictive or repetitive behaviors; he provided no examples.

d. On the ABAS-II, with claimant’s mother as reporter, claimant’s adaptive skills were scored in the average range for the most part, though borderline skills were reported in communication, self-care, health and safety, and social skills. Claimant’s mother also reported that claimant seeks friendships among his peers, greets family members and friends, hugs and kisses his parents, sometimes shares toys willingly, and shows sympathy for others.

11. Ms. Aguilera conducted a language sample and clinical observations of claimant’s social linguistic interactions and interviewed claimant. Claimant, whose chronological age was 58 months at the time, demonstrated language comprehension at an age level of 33 months on the Rossetti Infant-Toddler Language Scale (RITLS). Ms. Aguilera found these results to demonstrate moderate delay in verbal language processing (e.g., understanding complex questions, two- and three-step commands, and abstract word meanings). Claimant also demonstrated expressive language abilities at the 33-month age level, also indicating moderate delays. He took turns with others in speaking, but showed limited ability to engage in topics of mutual interest, and occasionally used scripted language from television. “His difficulties in communication interfere with his social participation and social relationships.” (Ex. 6, p. 9.)

12. Based on their assessment, both Dr. Langenbacher and Ms. Aguilera diagnosed claimant with Social (Pragmatic) Communication Disorder, a diagnosis they believe is consistent with claimant's pattern of developmental challenges. "[Claimant] does not present with the restricted interests and repetitive behaviors as are required for mak[ing] a diagnosis of Autism Spectrum Disorder, as he does not demonstrate stereotyped motor movements or speech patterns, he copes reasonably well with transitions according to his teacher and by observation, he does not demonstrate restricted interests of abnormal intensity, and he does not demonstrate sensory processing differences. [Claimant] *does not* meet criteria for a diagnosis of Autism Spectrum Disorder." (Ex. 6, p. 9.) They recommended, among other things, that claimant receive speech therapy services, social skills instruction through his educational program or through community-based services, and structured social and recreational activities.

13. Claimant's school district's Special Education Department prepared an Interdisciplinary Psycho-Educational Assessment Report concerning claimant, dated July 13, 2015. A multi-disciplinary team assessed claimant over five days in June and July 2015, in the home and classroom and on the school playground, using various diagnostic instruments. Claimant's classroom teacher reported that "the concerns they once had for [claimant] no longer exist. . . . [Claimant] "has made a huge improvement in being able to generalize social skills he has been taught, demonstrates flexibility in his thinking now. . . . [Claimant] participates in class activities and has good joint interaction with his peers . . . and is starting to read social cues." (Ex. 8, pp. 5-6.) The assessment reports that, "[o]verall, claimant displayed age appropriate joint attention with peers, engaged in conversation with peers, and had safety awareness on the playground while at play." (Ex. 8, p. 7.) In a summary section, the report states that claimant's cognitive functioning is within the high average range, his overall adaptive behaviors are within the average range, his overall social-emotional development is within the borderline-

critical range at school and average at home, his receptive and expressive language skills and articulation skills are average, and his pragmatic use of language is delayed. (Ex. 8, p. 34.) Entries in the logs of claimant's therapeutic companion are consistent with the school district report, describing claimant's successes in playing and conversing with friends at school. (See, e.g., Ex. C22, p. 188.)

14. Based on the report's recommendations, in claimant's Individualized Education Plan (IEP) the school district offered claimant a general education classroom with speech therapy for 30 minutes, two times per week. Claimant's family declined the school district's offer of services and chose instead to send claimant to a private school.

15. While the delay in claimant's pragmatic use of language reported in his school district's evaluation may be consistent with a finding of one element of autism under the DSM 5, it is also consistent with Dr. Langenbacher's diagnosis of social (pragmatic) communication disorder.

16. Thomas L. Carrillo, Ph.D., a licensed clinical psychologist, performed another psychological evaluation of claimant for the Service Agency on November 12, 2015. The evaluation was "limited to an assessment of developmental disabilities, specifically mental retardation, (i.e., intellectual disability) and/or Autism." (Ex. 9.) Dr. Carrillo reviewed claimant's records, including the school district's evaluation and Dr. Danis's evaluation. Dr. Carrillo also administered the Vineland Adaptive Behavior Scales–Second Edition (Vineland) and the ADOS-2, Module 2.

a. On the Vineland, claimant scored in the low normal range in daily living skills and in socialization. In adaptive functioning, including communication, daily living skills, socialization skills, and motor skills, claimant demonstrated adaptive abilities within the low normal range with a composite score of 84.

b. "On the ADOS-2, Module 2 in the area of Social Affect, [claimant] received a total score of 7. In the area of Restrictive Repetitive Behaviors, [claimant]

received a total score of 1. [Claimant's] overall score was an 8, which gave him a Comparison Score of 4. This Comparison Score places [claimant] in the low probability of an Autism Spectrum Disorder." (Ex. 9, p. 6.) Dr. Carrillo reported that claimant's scores were below the cutoff scores for autism and autism spectrum disorder. Dr. Carrillo found that claimant met the autism diagnostic criterion of deficits in nonverbal communicative behaviors used for social interaction, in that his "eye contact was fleeting and he displayed an impoverished range of facial expressions and gestures to demonstrate his mood." (*Ibid.*) But Dr. Carrillo found that claimant did not meet the diagnostic criteria of deficits in social-emotional reciprocity and in developing, maintaining, and understanding relationships. Nor did claimant meet the criteria of restricted, repetitive patterns of behavior, interests, or activities. He did not demonstrate any repetitive movements or echolalia, or any inflexible adherence to routine; he transitioned easily and had no fixated interests of abnormal intensity. (*Id.* at pp. 6-7.) Claimant partially met the criterion of hyper-reactivity to sensory input, demonstrating only a hypersensitivity to sound.

c. Dr. Carrillo concluded that claimant "does not meet the criteria for a diagnosis under DSM-5. [¶] Cognitive abilities within the normal range, communication skills within the normal range and adaptive abilities in the low normal range." (Ex. 9, p. 8.) He recommended that claimant continue to receive his current therapeutic interventions, which he incorrectly attributed to claimant's school district.

17. Carrie N. Dilley, Ph.D., prepared a Psychological Evaluation report dated May 2, 2016. In her report, Dr. Dilley wrote that claimant's parents requested her to perform a "psychodiagnostic evaluation to formally assess his neurodevelopmental functioning, including social, emotional, behavioral, and sensory processing, as well as his current adaptive functioning." (Ex. 9, p. 1.) Dr. Dilley interviewed claimant's parents,

observed claimant at school, and administered the ADOS-2, Module 3 and other diagnostic instruments.

a. On the ADOS-2, Module 3, claimant had an overall score of nine, meeting the cutoff for autism. He had a social affect score of 7 and a restricted and repetitive behavior score of 2, based on stereotyped/idiosyncratic use of words or phrases and unusual sensory interest in play material/person. His comparison score was 6, placing him within the moderate range compared to others his age with a diagnosis of autism spectrum disorder. Claimant's "observed behaviors and patterns of engagement during the ADOS-2 administration were consistent with him qualifying for a formal diagnosis of Autism Spectrum Disorder." (Ex. 10, p. 6.)

b. At school, Dr. Dilley observed claimant engage in parallel play, which his therapeutic companion, Lindsay Burianek, M.A., was able to interrupt and convert into a "meaningful interactive activity" involving claimant's peers.

c. In her office, Dr. Dilley observed claimant feeling comfortable with her, though making only sporadic eye contact. "Although he exhibited fluent speech, [claimant] demonstrated delays in his pragmatic language skills with awkward phrasing of sentences. He also occasionally engaged in echolalia by whispering his last spoken phrases to himself." (Ex. 10, p. 4.) Dr. Dilley wrote that claimant "appeared to be socially interested, but was lacking many of the necessary skills to independently engage in successful social exchanges at this time." (Ibid.)

d. Dr. Dilley reported that claimant "presents with a number of strengths that would be considered atypical of many children on the autism spectrum. For instance, [claimant] exhibits a strong desire to engage socially with his peers, but despite having this desire, he struggles to effectively initiate social engagement. Similarly, [claimant] is capable of engaging in back-and-forth communication with others; however, he struggles with reading and responding appropriately to social cues. Despite

his areas of strength, the overall results from this evaluation are highly consistent that [claimant] meets the criteria for a formal diagnosis of Autism Spectrum Disorder.” (Ex. 10, p. 10.)

e. Dr. Dilley challenged the evaluations performed by Dr. Langenbacher and Dr. Carrillo. Dr. Langenbacher was the only evaluator to give claimant a score of zero on the ADOS-2, Module 3, for restricted and repetitive behaviors and did not observe claimant at school. It is true that Dr. Langenbacher’s report of no restrictive and repetitive behaviors is contradicted by the other evaluations. Her failure to observe claimant at school is mitigated entirely, however, by her reliance on the school district’s thorough multidisciplinary report. Dr. Carrillo used Module 2 of the ADOS-2; the use of Module 2 for a child with fluent language skills may have resulted in “more neurotypical scores because the tasks were geared for younger and more developmentally impaired children. Thus, the results from this evaluation likely misrepresented [claimant’s] actual levels of functioning.” (Ex. 10, p. 10.) Dr. Carrillo did not explain in his report why he used Module 2 instead of Module 3, which does raise some question about his results.

18. Dr. Dilley diagnosed claimant with Autism Spectrum Disorder and Language Disorder, reporting that he has “limitations with pragmatic communication, responding appropriately to his social environment, making successful transitions, and becoming occasionally fixated or perseverative in his thinking.” (Ex. 10, p. 13.) She recommended an updated IEP, appropriate supports at school, speech and language services with a licensed speech pathologist, and services and supports from SGPRC.

19. Claimant’s mother testified that claimant tantrums violently at home and in the community when there are changes in routine, such as the order of putting on clothes, the brand of macaroni and cheese he is offered, and whether he gets to hold his mother’s hand when in public. She testified that she attempts to normalize his behaviors when assessing claimant for psychologists and other health professionals during

claimant's evaluations. She and her husband have paid \$46,924.27 for assessments, therapy, and an aide for claimant, after insurance payments, since first requesting services from the Service Agency. Of that amount, \$36,200.25 was incurred after submitting the FHR.

20. Claimant's father testified that he and his wife rejected the offer of services from claimant's school district, because the district did not offer the services recommended by claimant's physician. Claimant's parents chose not to challenge the school district's offer or request a due process hearing. Providing the autism-related services recommended by claimant's physician has been an extraordinary expense that has strained the family's finances.

21. It was not established by a preponderance of the evidence that claimant has intellectual disability, epilepsy, or cerebral palsy, or that he has a disabling condition closely related to intellectual disability or requiring treatment similar to that required for individuals with intellectual disability. There was no evidence introduced of any physical disability, and it is not contested that claimant's cognitive functioning is appropriate for his age level.

22. The evidence that claimant satisfies the DSM 5 criteria for autism, including Dr. Dilley's evaluation and her critique of earlier reports, and findings in the school district's evaluation, among other things, is somewhat more persuasive than evidence to the contrary.

23. A diagnosis of autism is not sufficient, however, to establish eligibility for regional center services under the Lanterman Act. Claimant must also establish that his condition is substantially disabling in three or more areas of major life activities.<sup>3</sup> The evidence does not, on the whole, support that conclusion.

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<sup>3</sup> Welf. & Inst. Code, § 4512, subd. (l)(1).

24. For children of claimant's age, relevant areas of major life activities are self-care, receptive and expressive language, learning, mobility, and self-direction.

a. Results reported by Dr. Langenbacher, claimant's school district, Dr. Dilley, and Dr. Carrillo show that claimant's self-care skills are in the average or low normal range and do not constitute a substantial handicap.

b. There is no dispute that claimant is substantially handicapped in the area of receptive and expressive language.

c. Claimant's cognition and intellectual functioning scores do not show a substantial handicap in the area of learning. Claimant's parents' and Dr. Dilley's speculation about whether the area in which claimant is substantially handicapped, receptive and expressive language, may affect claimant's performance in learning is not persuasive. A substantial handicap must be demonstrated in each of three or more areas, and the evidence does not demonstrate that.

d. The evidence shows that claimant is not substantially handicapped in mobility.

e. As for self-direction, to establish a substantial handicap for a school-aged child the evidence should show "significant impairment in the individual's ability to make and apply personal and social judgments and decisions . . . *across multiple settings*." (Ex. 11, italics added.) This includes difficulties establishing and maintaining relationships with family or peers, social immaturity, marked difficulty protecting against exploitation, and disruptive behaviors. The strongest evidence for a handicap in this area is from parents' report of claimant's behaviors at home or on family trips. Claimant's father reported to the school district that claimant does not display these behaviors at school, however. (Ex. 8, p. 5.) On May 28, 2015, one of claimant's teachers reported that claimant had trouble tolerating changes in routine. (Ex. 8, pp. 30-31.) On July 13, 2015, however, claimant's classroom teacher reported that claimant no longer exhibits that

difficulty, and that he demonstrates flexibility and “is not disruptive to class routine.” (Ex. 8, p. 5.) Because claimant does not show pervasive significant impairment across multiple settings, the weight of the evidence does not establish a substantial handicap in the area of self-direction.

25. Claimant may at any time submit to SGPRC for its consideration the results of any additional assessments performed by claimant’s school district or by any medical or mental health professionals.<sup>4</sup>

## LEGAL CONCLUSIONS

1. Cause does not exist to grant claimant’s request for regional center services, as set forth in Factual Findings 1 through 25, and Legal Conclusions 2 through 4.

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

3. The Lanterman Act governs this case. (Welf. & Inst. Code, § 4500 et seq.) To establish eligibility for regional center services under the Lanterman Act, claimant

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<sup>4</sup> At the hearing, claimant requested that the Service Agency reimburse claimant’s family \$46,924.27, the amount the family has spent on autism-related services for claimant since the Service Agency’s first assessment in July 2015, or, in the alternative, \$30,000, the amount spent since the family filed the FHR. The request for reimbursement was not raised in the FHR. Whether reimbursement would be appropriate for equitable reasons in this matter were claimant found eligible for regional center services need not be addressed, in view of the finding of ineligibility.

must show that he has a developmental disability that "originate[d] before [he] attain[ed] 18 years of age; continues, or can be expected to continue, indefinitely; and constitutes a substantial disability for [him]." (Welf. & Inst. Code, § 4512, subd. (a).) There are five categories of developmental disability that may be used to establish eligibility for regional center services. (*Ibid.*; see Factual Finding 2, fn. 2.) If an individual does have one or more developmental disabilities, the Lanterman Act requires that the disability or disabilities be substantial for that individual to be eligible for regional center services. A substantial disability entails significant functional limitations in three or more of the following areas of major life activity: self-care, receptive and expressive language, learning, mobility, self-direction, capacity for independent living, and economic self-sufficiency. (Welf. & Inst. Code, § 4512, subd. (j)(1).)

4. Claimant did not establish by a preponderance of the evidence that he is eligible for regional center services under the Lanterman Act. (Factual Findings 1-25.) Although a preponderance of the evidence suggests that claimant does meet the diagnostic criteria for autism, it does not demonstrate a substantial disability in three or more areas of major life activity, as required under Welfare and Institutions Code section 4512, subdivision (j)(1).

## ORDER

Claimant's appeal is denied.

DATE: October 6, 2016

A handwritten signature in black ink, appearing to read "Howard W. Cohen", written over a horizontal line.

HOWARD W. COHEN

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.