

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

CLAIMANT,

vs.

NORTH LOS ANGELES COUNTY
REGIONAL CENTER,

Service Agency.

OAH No. 2016100879

DECISION

Chantal M. Sampogna, Administrative Law Judge, Office of Administrative Hearings, State of California, heard this matter on August 24, 2017, in Santa Clarita, California.

Jennifer Williamson, Fair Hearing and Administrative Procedures Manager, represented North Los Angeles County Regional Center (NLACRC or Service Agency).

Claimant's mother (Mother) represented claimant, who was not present.¹ Mother was assisted by Bernadette Buckley, a Spanish language interpreter.

Oral and documentary evidence was received and the matter was submitted for decision at the conclusion of the hearing.

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¹ Titles are used to protect the family's privacy.

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ISSUE

Whether claimant is eligible for services under the Lanterman Developmental Disabilities Services Act (Lanterman Act) (Welf. & Inst. Code, § 4500 et seq.).²

EVIDENCE RELIED UPON

Documents: Service Agency's exhibits 1 through 23.

Testimony: Dr. Heike Ballmaier, Supervisor Psychology / Intake Service Departments; Mother.

FACTUAL FINDINGS

1. Claimant is a 12-year-old girl, born August 16, 2005, who resides with her mother, father, and three siblings, in California. Based on claimant's cognitive functioning, memory challenges, and repetitive behaviors, claimant seeks a finding that she has a developmental disability as defined in the Lanterman Act under the eligibility categories of Autism Spectrum Disorder, Intellectual Disability, or due to a disabling condition closely related to an intellectual disability or requiring treatment similar to that required for an intellectual disability. (§ 4512, subd. (a).)

2. On July 21, 2016, NLACRC issued a Notice of Proposed Action and accompanying letter (NOPA) which informed claimant that she was not eligible for services under the Lanterman Act. On October 11, 2016, claimant filed a Fair Hearing

² All further statutory references are to the Welfare and Institutions Code, unless otherwise specified.

Request.

3. The Service Agency determined that claimant is not eligible under the Lanterman Act based on the results of visual and written assessments, and the lack of any qualifying conditions set forth in claimant's educational, medical, and psychological records, as described below.

CLAIMANT ASSESSMENTS AND RECORDS

Standardized Test for Assessment of Reading (STAR) Reports

4. As a student of the Santa Clarita Unified School District (SCUSD), claimant completed a STAR assessment on November 20, 2013, when she was in her third month of third grade, and demonstrated the reading aptitude of a student in the fifth month of second grade. Claimant completed a STAR assessment on November 18, 2014, when she was then in her third month of fourth grade, and demonstrated a reading aptitude of a student in the seventh month of second grade.

Student Success Team (SST) Meeting (December 10, 2015)

5. Due to claimant's academic and behavioral challenges, the SCUSD convened a SST, teams formed to consider a student's academic and behavioral needs to maximize the student's potential. On December 10, 2015, claimant's SST convened to review claimant's areas of concern, including her symptoms related to her recent diagnosis of Attention Deficit Hyperactivity Disorder (ADHD), and to develop an action plan that would help claimant improve in her academic progress and behaviors. The SST learned claimant enjoys music, church, choir, soccer, cooking, and spending time with family. She is highly energetic, tries to do her best, maintains a positive attitude, and is caring and helpful. Claimant's ability to focus, not act impulsively, and to remember auditory information is challenged, and claimant is constantly in motion, e.g., rocking the table to the point of disruption to classmates. At the time of this SST meeting,

claimant was having a negative response to her ADHD medication, Guanfacine, including nausea and vomiting. The SST recommended that claimant attend a reading group one-hour per day, four-days per week, and 30 minutes of math intervention, two-days per week.

NLACRC Intake Application (February 6, 2016)

6. On February 6, 2016, Mother completed a NLACRC intake application and requested claimant be found eligible for Lanterman Act services based on claimant's inattention, memory challenges, and her inability to understand what is asked of her at school.

NLACRC Social Assessment (May 17, 2016)

7. NLACRC Intake Service Coordinator Lorena Segura, M.S., conducted a social assessment of claimant on May 17, 2016, by interviewing Mother on the phone. Ms. Segura learned that claimant, at that time 10-years-old, lived with her parents and two of her siblings, a 15-year-old sister and 24-year-old sister, and also has a 21-year-old brother who lives outside of the home. Claimant's 15-year-old sister is a consumer of NLACRC based on her diagnosis of mild intellectual disability, epilepsy, and cerebral palsy. Mother reported the following about claimant: she is sensitive to clothing tags, which Mother removes from her clothing, and to the presentation of food and smells; she is careless when out in public, frequently falling or bumping into things; she becomes anxious when out in public places; she persistently bites her nails and has difficulty sleeping; and she can assist with household chores, but frequently forgets what she needs to do. Mother further reported that claimant was below grade level in math and reading comprehension, was able to share and take turns and to understand the rules of games, and that claimant enjoys being around children her age or younger. At the conclusion of the assessment, Ms. Segura recommended the Service Agency review

claimant's medical, school, and psychological records, and then determine if claimant was eligible for Lanterman Act services.

Notes, Carlo De Antonio, M.D. (May 26, 2016)

8. Dr. De Antonio, NLACRC Director of Clinical Services, reviewed claimant's medical records and found no indication of substantially handicapping cerebral palsy, epilepsy, or chronic major medical condition. Dr. De Antonio recommended claimant receive a psychological evaluation to assist NLACRC with its eligibility determination.

Psychological Evaluation, Conducted by Evelin Garcia, Psy.D., (June 16, 2016)

9. On June 16, 2016, when claimant was 10-years-and-10-months-old, while in fifth grade, Dr. Garcia conducted the psychological evaluation. During this evaluation, claimant sustained eye contact with Dr. Garcia and asked and answered Dr. Garcia's questions. Dr. Garcia found claimant's motivation, attention to task, and effort was appropriate throughout the assessment session.

A. Dr. Garcia administered the Wechsler Intelligent Scale for Children – Fifth Edition (WISC-V) to assess claimant's cognitive functioning. Claimant's Full Scale Intelligence Quotient (FSIQ) was 84 (low average). Claimant's subtest scores were as follows: verbal comprehension 89 (low average, suggesting limitations in word knowledge, verbal reasoning, and ability to classify); visual spatial index 78 (very low range, demonstrating claimant's difficulties in visual-perception and visual-spatial abilities); fluid reasoning index 76 (very low range indicating claimant has inconsistent nonverbal reasoning and problem-solving abilities); working memory index 100 (average range, suggesting adequate short-term visual and auditory memory); and processing speed index 95 (average range).

- B. Dr. Garcia administered the Autism Diagnostic Observation Schedule (ADOS-2), Module 3, to assess claimant's emotional, social, and behavioral functioning, and possible characteristics of Autism Spectrum Disorder (ASD). During this assessment, claimant maintained eye contact, and responded appropriately to social interactions and questions. Dr. Garcia was able to build rapport with claimant, and Dr. Garcia did not witness any self-stimulatory/sensory, repetitive, or ASD stereotyped behaviors. Claimant's classification on the ADOS-2 was "non-spectrum."
- C. Dr. Garcia measured claimant's communication and adaptive functioning through the Vineland Adaptive Behavior Scales (Vineland-II), using Mother as the rater. Based on Mother's ratings, claimant's overall socialization score was 66 (below average), with a communication rating of 67 (low range for both receptive and expressive language), overall adaptive behavior composite of 64, and adaptive functioning of 61 (low range). These scores were based on Mother's report of the following: claimant does not take turns but has good sportsmanship; she can independently dress, bathe, and can put her clothes away and the clear table, but needs prompting; and claimant can make phone calls and is beginning to obey traffic lights and know how to identify dates on a calendar. Dr. Garcia observed that claimant spoke in complete sentences, with no articulation difficulties or abnormalities in intonation, and claimant reported events, provided personal information, and sustained conversation verbally and nonverbally without difficulties.
- D. Based on these testing and interview results, and Dr. Garcia's review of prior reports and records, Dr. Garcia agreed with claimant's prior diagnosis of ADHD, and recommended claimant be referred to the NLACRC for an eligibility determination, to her school district for special education eligibility

determination, and for a mental health assessment and treatment for claimant's anxiety symptoms.

Child/Adolescent Full Assessment, Los Angeles County Department of Mental Health (September 2016)

10. Claimant's school counselor referred claimant to the Los Angeles County Department of Mental Health for a Child/Adolescent Full Assessment due to claimant's poor academic performance, forgetfulness, inattention, and symptoms of anxiety. In September 2016, Monica Pallan, M.F.T., conducted the assessment. In addition to the previously identified symptoms, at the time of this assessment Mother reported the following: claimant verbalized fear of death; she is sensitive and cries easily; she had been taking Adderall since February 2016, but it had not helped with claimant's ADHD symptoms; she had been taking Benadryl to help with restlessness and insomnia, but it was also not helpful; claimant spends a lot of time with her 25-year-old sister, with whom she shares a room, and helps her 15-year-old sister, a NLACRC client, with bathing and walking to the school bus. Claimant reported that she does not receive consequences if she fails to complete a task.

11. Ms. Pallan observed the following: claimant was nervous and restless, biting her nails and shaking her legs, and had a somewhat flat affect; claimant maintained good eye contact and engagement with Ms. Pallan during the assessment, and did not demonstrate aggression or impulsivity; claimant expressed fear that her family members were going to die; and claimant had good insight into her symptoms and behaviors and was open to treatment and change. Ms. Pallan's diagnostic summary was that claimant meets the criteria for ADHD, primarily inattentive type, due to these symptoms and observations. Ms. Pallan recommended claimant receive individual therapy one time per week, family therapy twice per month, and a psychiatric evaluation. Family therapy would focus on teaching claimant's parents about claimant's

symptoms, and how the parents can talk with claimant when she is anxious and better manage claimant's ADHD symptoms. Individual therapy would address increasing claimant's task completion at home through claimant practicing techniques to assist with inattention (counting, thought stopping, timer) and self-regulation techniques (deep breathing, relaxation skills, grounding object) when claimant feels restless, and practicing coping skills for her anger and frustration by identifying core feelings surrounding these feeling and claimant's non-compliance at home.

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Initial eligibility determination (July 20, 2016)

12. On July 20, 2016, the NLACRC Interdisciplinary Eligibility Committee reviewed claimant's application and related materials and determined claimant was not eligible for Lanterman Act services.

Student Success Team Meeting (October 13, 2016)

13. At an October 13, 2015 SST Meeting, Mother reported that claimant continued to bite her nails, easily forget lessons learned, and does not retain information she has read, and that claimant's doctor had adjusted claimant's medication. Claimant's teacher reported that claimant continued to bite her nails and can get work done but it was not accurate, and she had not noticed a change in claimant's ability to pay attention. The SST Action Plan was to hold a Section 504 Plan Meeting, pursuant to Section 504 of the Rehabilitation act of 1973 (29 U.S.C. Sec. 794) to determine what reasonable accommodations claimant may need to access her education.

NLACRC Letter to Mother (October 24, 2016)

14. In the NLACRC's October 24, 2016 letter to Mother, Rhonda Campbell, NLACRC Contract Officer, acknowledged the informal meeting held with herself and Mother on October 17, 2015, and that at the conclusion of this meeting, Mother agreed that NLACRC would defer a formal eligibility determination until after it had gathered additional information from the Child and Family Center (CFC) and results from a school observation and teacher interview to be conducted by a NLACRC psychologist.

School Observation, Dr. Ballmaier (November 16, 2016)

15. Based on NLACRC and Mother's October 24, 2016 agreement, on November 16, 2016, Dr. Heike Ballmaier, NLACRC Supervisor of the Psychology and Intake Service Departments, conducted a school observation of claimant. Dr. Ballmaier observed the following: claimant participated in the assigned physical education activities by playing the game Capture the Flag, and by walking and running laps around the perimeter of school yard while socializing with a group of friends with whom claimant conversed, making appropriate eye contact and using gestures when she spoke, and displaying no atypical social behaviors; claimant returned to her classroom at the sound of the whistle, still socializing with her friend group; during the classroom activity, claimant was able to follow the teacher's instruction, picking up from a prior lesson that involved outline drawings of various states and countries, and was able to go to the front of the room and answer the teacher's question and identify the correct state; claimant then worked well with the resource support teacher who helped claimant with the math assignment. Claimant's teacher reported that claimant bites her nails and uses a piece of Velcro placed under claimant's desk for claimant to touch and rub instead of biting her nails, and that claimant struggles to keep up academically, but that she had not observed any idiosyncratic communication or social behaviors. At the conclusion of this school observation, Dr. Ballmaier found claimant's ADHD diagnosis

was accurate and recommended claimant be assessed more extensively through her school district for special education eligibility, participate in individual and family counseling to address anxiety, and consider returning to NLACRC before she is 18-years-old to monitor her cognitive skills.

Eligibility Re-determination (December 12, 2016)

16. On December 14, 2016, the NLACRC Interdisciplinary Eligibility Committee reviewed claimant's application and related materials, including Dr. Ballmaier's school observation report, and re-determined claimant was not eligible for Lanterman Act services. On that date, Ms. Campbell informed Mother in writing of the NLACRC's re-determination.

Child and Family Center (CFC) Letters (March 10 and 16, 2017)

17. On March 10, 2017, Lilian Arellano, School Based Therapist, Clinician I, and Stephen Finn, School Based Supervisor, Clinician II, wrote a letter confirming that claimant is a school based client of CFC, a non-profit agency located in Santa Clarita, California, which provides school based counseling and mental health services to students with emotional problems, and to their families. Claimant began CFC services in July 2016, and had attended 31 individual and family counseling sessions to date. These sessions are designed to help claimant increase task completion and compliance at home. On March 16, 2017, Sharmin Jahan, M.D., a psychiatrist with CFC, who had been treating claimant since August 2016 for ADHD, sent claimant's father a letter acknowledging that claimant takes medication to improve her ADHD symptoms, including her challenges with sleep, attention, and hyperactive and impulsive behavior. Dr. Jahan informed the father that claimant would require placement in an educational setting to accommodate claimant's diagnoses and associated academic impairment.

Claimant's Individualized Education Plan (IEP) (April 11, 2017)

18. Due to claimant's continuing academic struggles and previously identified symptoms, on April 11, 2017, an IEP team met to consider whether claimant was eligible for special education services. Claimant's IEP team found claimant eligible for special education services under the Other Health Impairment category based on claimant's ADHD and related symptoms. During the IEP testing, claimant was focused and tried hard on all of her subtests. Based on claimant's test results, the IEP team found claimant to be functioning within the average range, with visual-motor integration below average, auditory processing high average, and visual processing within the superior range. Claimant's medication regime had been adjusted to include Amphetamine Salts to help with her focus, Clonidine and Melatonin to help with sleeping, Citalopram for anxiety, and Montelukast Sod for her asthma. Both claimant's teacher and parents had found claimant to have improved her ability to maintain her focus since beginning this medication regime. Mother had observed that claimant was now able to listen the first time she was given instructions. The school psychologist and resource teacher found that claimant had a very strong memory, was able to remember auditory and visual tasks with ease, and noted that claimant had recently memorized a passage and recited it to the class. Continuing concerns were raised by claimant's teacher, who found claimant's learning problems to be very elevated, and by the parents, who continued to find claimant's inattention, hyperactivity and impulsivity, learning problems, executive functioning, and challenges with peer relations to be very elevated. The Claimant's IEP goals are improved performance on math story problems and calculation, and improved reading comprehension. Mother signed claimant's IEP which provides for general education participation with resource supports, including specialized academic instruction to occur 30 minutes, twice per week, in a group setting but separate classroom.

Eligibility Re-determination (April 26, 2017)

19. On April 26, 2017, the NLACRC Interdisciplinary Eligibility Committee reviewed claimant's application and related materials, including claimant's IEP and CFC records, and re-determined claimant was not eligible for Lanterman Act services. On May 11, 2017, Ms. Campbell informed Mother in writing of the NLACRC's re-determination.

Claimant's Evidence

20. Mother believes claimant is eligible under the Lanterman Act due to claimant's limited capacity to remember or implement directions, limited historical memory, her nail biting, clumsiness, and sensitivity to materials, and due to claimant's psychological cognitive and adaptive skills testing results. Mother thinks claimant should have therapy services to help her because claimant forgets everything, from forgetting to complete tasks requested of her to forgetting historical moments such as birthdays. Mother avoids taking claimant out to public places because claimant gets bored easily, and runs around at stores and touches everything. Mother has found that the family therapy has helped claimant. Before the therapy, claimant could not focus on games after school, but now claimant will play games with Mother after school.

DIAGNOSTIC STATISTICAL MANUAL OF MENTAL DISORDERS (DMS-V) DEFINITIONS OF AUTISM SPECTRUM DISORDER AND INTELLECTUAL DISABILITY (ID)

Autism Spectrum Disorder

21. The DSM-V defines ASD as having the following four essential features. First, an individual must have persistent impairment in reciprocal social communication and social interaction (Criterion A), as manifested either currently or historically by all of the following: (1) deficits in social-emotional reciprocity, (2) deficits in nonverbal communication behaviors used for social interaction, and (3) deficits in developing,

maintaining, and understanding relationships. Second, the individual must have restricted, repetitive patterns of behavior, interests or activities (Criterion B), as manifested by at least two of the following : (1) stereotyped or repetitive motor movement, use of objects or speech, (2) insistence on sameness, inflexible adherence to routines, or ritualized patterns of verbal or nonverbal behavior, (3) highly restricted, fixated interests that are abnormal in intensity or focus, and/or (4) hyper- or hyporeactivity to sensory input or unusual interest in sensory aspects of the environment. These symptoms must be present in early childhood and limit or impair everyday functioning. (Criterion C and D).

Intellectual Disability

22. The DSM-V provides that the following three diagnostic criteria must be met to be diagnosed with ID:

- A. An individual must have deficits in intellectual functions, such as reasoning, problem solving, planning, abstract thinking, judgment, academic learning, and learning from experience, confirmed by both clinical assessment and individualized, standardized intelligence testing (Criterion A). Individuals with ID have FSIQ scores between of 65 – 75, including a margin for measurement error (generally ± 5 points). The DSM-V cautions that IQ tests must be interpreted in conjunction with considerations of adaptive function. The DSM-V explains that a person with an IQ score above 70 may “have such severe adaptive behavior problems in social judgment, social understanding, and other areas of adaptive functioning that the person’s actual functioning is comparable to that of individuals with a lower IQ score.” (Ex. 18, at p. 8.)
- B. Individuals with ID have deficits in adaptive functioning that result in a failure to meet developmental and socio-cultural standards for personal independence and social responsibility, which, without ongoing support, limit

functioning in one or more activities of daily life, such as communication, social participation, and independent living, across multiple environments, such as home, school, work, and community (Criterion B). This criterion is met when at least one domain of adaptive functioning – conceptual, social, or practical – is sufficiently impaired such that “ongoing support is needed in order for the person to perform adequately in one or more life settings at school, at work, at home, or in the community.” (*Id.* at p. 9.) The levels of severity of ID are defined on the basis of adaptive functioning, and not IQ scores, because the adaptive functioning determines the level of supports required.

- C. Individuals with ID must experience the onset of these symptoms during the developmental period (Criterion C).

FIFTH CATEGORY

23. The Lanterman Act provides for assistance to individuals with “disabling conditions found to be closely related to mental retardation or to require treatment similar to that required for mentally retarded individuals,” under the fifth category, but does “not include other handicapping conditions that are solely physical in nature.” (Welf. & Inst. Code § 4512, subd. (a); see *Mason v. Office of Administrative Hearings* (2001) 89 Cal.App.4th 1119, 1129.) The fifth category is not defined in the DSM-V.

24. On March 16, 2002, in response to the *Mason* case, the Association of Regional Center Agencies (ARCA) approved the Guidelines for Determining 5th Category Eligibility for the California Regional Centers (Guidelines). In those Guidelines, ARCA confirmed that eligibility for Regional Center services under the fifth category required a “determination as to whether an individual functions in a manner that is similar to that of a person with mental retardation OR requires treatment similar to that required by individuals with mental retardation.” (Ex. 19.) The Guidelines list the

following factors to be considered when determining eligibility under the fifth category: whether the individual functions in a manner that is similar to that of a person with mental retardation; whether the individual requires treatment similar to that required by an individual who has mental retardation; whether the individual is substantially handicapped; and whether the disability originated before the individual was 18-years-old and is it likely to continue indefinitely. In *Samantha C. v. State Department of Developmental Services* (2010) 185 Cal.App.4th 1462, the court cited with approval to the ARCA Guidelines and recommended their application to those individuals whose “general intellectual functioning is in the low borderline range of intelligence (I.Q. scores ranging from 70-74)” for fifth category eligibility. (Id. at p. 1477.)

LEGAL CONCLUSIONS

1. The Lanterman Act governs this case. An administrative “fair hearing” to determine the rights and obligations of the parties is available under the Lanterman Act. (§§ 4700-4716.)

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 claimant is eligible for Lanterman Act services. (Evid. Code, § 115.)

3. A developmental disability is a disability that originates before an individual turns 18-years-old. This disability must be expected to continue indefinitely and must constitute a substantial disability for the individual. Developmental disabilities are limited to cerebral palsy, epilepsy, autism, an intellectual disability, or a disabling condition found to be closely related to intellectual disability or to require treatment similar to that required for an individual with an intellectual disability. Developmental disabilities do not include other handicapping conditions that are solely physical in

nature. (Welf. & Inst. Code, § 4512, subd. (a), Cal. Code of Regs., tit. 17, § 54000.)³

4. A substantial disability is the existence of significant functional limitations in three or more of the following areas of major life activities: self-care, receptive and expressive language, learning, mobility, self-direction, capacity for independent living, and economic self-sufficiency. (§ 4512, subd. (j); Cal. Code Regs., tit. 17, § 54001, subd. (a).)

5. As defined under the Lanterman Act, developmental disability does not include the following: solely psychiatric disorders where there is impaired intellectual or social functioning which originated as a result of the psychiatric disorder or treatment given for such a disorder; solely learning disabilities which manifest as a significant discrepancy between estimated cognitive potential and actual level of educational performance and which is not a result of generalized mental retardation, educational or psycho-social deprivation, psychiatric disorder, or sensory loss; and disabilities that are solely physical in nature. (Cal. Code of Regs., tit. 17, § 54000, subd. (c).)

6. Claimant does not have cerebral palsy or epilepsy. Claimant did not establish that she is an individual with autism spectrum disorder, an intellectual disability, or that she has a condition closely related to intellectual disability or requiring treatment similar to that required by people with an intellectual disability. Claimant's most pronounced and limiting symptoms are her challenges with focus, memory, and biting her nails. The evidence established that claimant has ADHD, a learning disability, and symptoms consistent with anxiety, mental health challenges. (Factual Findings 4-24.)

7. Some of claimant's behaviors were those that someone with ASD may demonstrate – sensitivity to foods and materials, and heightened preoccupation with a

³ All further statutory references will be to the Welfare and Institutions Code unless otherwise noted.

subject matter. In claimant's case she is at times preoccupied with death. However, claimant had consistent peer relationships, made eye contact and had congruent facial expressions during conversations, and she consistently demonstrated interest and participation in many activities. Claimant does not have persistent impairment in reciprocal social communication and social interaction, nor has she demonstrated repetitive patterns of behavior, interests or activities. Claimant does not have ASD. (Factual Findings 4-20.)

8. Though claimant scored low average on the FSIQ (84), she scored above the FSIQ score found most commonly in individuals with ID, scores between of 65 – 75, including a ± 5 points margin for measurement error. As well, claimant did not demonstrate such severe adaptive behavior problems in social judgment, social understanding, and other areas of adaptive functioning that claimant's actual functioning was comparable to that of individuals with a FSIQ score low enough to qualify as ID. Most notably, with the receipt of IEP and mental health services, and medication adjustments, many of claimant's symptoms have improved. (Factual Findings 4-20.)

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9. Claimant did not establish eligibility under the Lanterman Act's fifth category as she failed to establish that she functions in a manner that is similar to that of a person with ID or that she requires treatment similar to that required by individuals

with ID. Rather, claimant has shown improvement in her attention, memory, school achievement, and compliance at home. For the foregoing reasons, claimant is not eligible for services under the Lanterman Act. (Factual Findings 1-24.)

ORDER

Claimant is not eligible for services under the Lanterman Act. Claimant's appeal is denied.

DATED:

CHANTAL M. SAMPOGNA
Administrative Law Judge
Office of Administrative Hearings

NOTICE

This is the final administrative decision in this matter. Each party is bound by this decision. An appeal from the decision must be made to a court of competent jurisdiction within 90 days of the receipt of this decision. (Welf. & Inst. Code, § 4712.5, subd. (a).)