

BEFORE THE  
OFFICE OF ADMINISTRATIVE HEARINGS  
STATE OF CALIFORNIA

In the Matter of the Eligibility of:

CLAIMANT,

and

INLAND REGIONAL CENTER,

Service Agency.

OAH No. 2018020825

DECISION

Administrative Law Judge Roy W. Hewitt, Office of Administrative Hearings, State of California, heard this matter in San Bernardino, California, on April 5, 2018.

Claimant represented himself with the assistance of his mother and father.

Jennifer Cummings, Consumer Services Representative, Fair Hearings and Legal Affairs, represented Inland Regional Center (IRC).

ISSUE

Must IRC perform an intake and assessment as a result of claimant's assertion that he qualifies for regional center services under the category of Intellectual Disability?

## FACTUAL FINDINGS

### JURISDICTION

1. Claimant, a 21-year-old male, requested regional center services. After reviewing claimant's psychiatric, psychological and school records, including past evaluations, the IRC interdisciplinary team concluded: "no 'intake' services can be provided at this time, because the records did not show that you [claimant] have a disability that qualifies you to receive IRC services." (Exh. 1) Claimant timely filed a Fair Hearing Request and the instant hearing ensued.

### EVIDENCE CONCERNING CLAIMANT'S CONDITION(S)

2. Dr. Holly Miller, Psy.D., the IRC staff psychologist who performed a complete records review concerning claimant, including those records identified in Findings 3 through 10, below, testified that the information contained in the records failed to establish that claimant has a diagnosis of Intellectual Disability or any other qualifying, substantially handicapping condition.

#### Claimant's Records

3. On March 24, 1998, when claimant was approximately 17 months old, he began receiving Early Start Services from the Regional Center of Orange County (RCOC) due to a "developmental delay." On August 27, 1999, RCOC notified claimant's parents of the following:

The Regional Center Eligibility Health Resources Group, which included RCOC's nurse and psychologist, reviewed [claimant's] records and made a determination that *he* is not eligible for Regional Center Services under the Lanterman Act since *he does not exhibit characteristics of [intellectual disability], cerebral palsy, epilepsy, autism or other substantially handicapping condition similar to [intellectual disability]. . . .* (Exh 12, italics in original.)

RCOC's determination was supported by an assessment of claimant's developmental levels. On April 19, 1999, when claimant was 31 months old, the assessments resulted in the following findings concerning claimant's "Present Levels of Development": "Physical Development/Gross Motor (e.g., lifting head, rolling, crawling, pull to stand)" – "Skill Level: (28 months of age)"; "Physical Development/Fine Motor (e.g., grasping, holding)" – "Skill Level: (28 months of age)"; "Cognitive Development (e.g., responsiveness to the environment, problem solving)" – "Skill Level: (24 months of age)"; "Communication/ Receptive (e.g., turn toward voice consistently)" – "Skill Level: 26 months of age"; Communication/Expressive (e.g., imitate single words, use motion or gestures for talking, verbally identify objects)" – "Skill Level: (26 months of age)"; Social/Emotional (e.g., how the child relates to others)" – "Skill Level: (24 months of age)"; "Adaptive/Self-Help (e.g., sleeping, eating, dressing)" – "Skill Level: (24 months of age)." (Exh. 18)

4. Claimant transitioned into the school system. His September 3, 1999, Individual Education Program (IEP) indicated he qualified for special education supports because he was "Speech or Language Impaired." (Exh. 5) Accordingly, he was referred to a Speech Pathologist for therapy.

5. On August 23, 2007, Kiki Roe, Ph.D., a clinical psychologist, conducted a psychological evaluation because "[claimant] has been diagnosed as having Maple Syrup Urine Disease, a metabolic disorder that affects cognitive development." Dr. Roe found that claimant's "overall cognitive skills are below age expectations and within the range of Borderline Intelligence." Dr. Roe noted that claimant was experiencing "much anxiety regarding his abilities and school achievement and worries about peer acceptance/rejection." (Exh. 10)

6. On October 15, 2013, claimant's achievement levels were measured on the Woodcock-Johnson III Normative Update Tests of Achievement (Form B). Comments concerning claimant's testing included the following:

When compared to others at his grade level, [claimant's] standard scores are average in brief reading and brief writing. His broad reading, math calculation skills, and broad written language scores are low average; his broad mathematics and brief mathematics scores are in the low range. His standard score is very low (compared to grade peers) in written expression. (Exh. 11)

7. On January 27, 2015, Dr. Ayesha G. Munir, M.D., completed a Mt. San Antonio College "Verification of Medical and Psychological Conditions" form. Mt. San Antonio College had requested certain information be provided "to document medical and psychological conditions for purposes of establishing eligibility for disability-related services and accommodations within the college context." Dr. Munir listed the following as "Primary Medical Conditions" in the form: ADHD (Attention Deficit Hyperactivity Disorder) and Maple Syrup Urine Disease. Claimant's primary psychological condition was "ADHD (combined type)." The following symptoms were identified as "the symptoms that currently affect this individual's [claimant's] major life activities": "Poor attention span and organization skills related issues." Dr. Munir recommended "continuation of medication" and "504 accommodations to address his [claimant's] attention related issues." (Exh. 8)

8. A May 28, 2015, School District "Summary of the Student's [claimant's] Academic Achievement and Functional Performance" report indicated that the following areas were not areas "of suspected disability at this time" and that claimant was "performing within age appropriate range" in those areas: Pre-Academic/Academic/Functional Skills; Cognitive Abilities; Communication Skills; Motor Skills (Fine/Gross); Social/Emotional/ Behavioral; and, Self Help/Adaptive. (Exh. 19)

9. On October 19, 2016, when claimant was 20 years old, Dr. Tina Marie Allee, M.D., authored the following psychiatry follow-up note: Claimant's chief complaint was "Attention deficit hyperactietyty [*sic*] disorder (ADHD)"; "Overall doing well, anxiety under control, gets stressed at times but most of the time anxiety is not a major issue";

"taking his Zoloft, increased methylphenidate was helping him"; and claimant was "Starting college in February."

10. In a November 14, 2016, report authored by Dr. Michael Byron Lee, M.D., who is board certified in neurology, clinical neurophysiology and epilepsy, Dr. Lee set forth the following "Diagnostic Impression[s]": "Mild Cognitive impairment due to Maple Syrup Urine Disease" and "Specific Learning Disorder (Per History)."

#### CLAIMANT'S EVIDENCE

11. Claimant's mother's testimony is summarized as follows: Dr. Miller, IRC Staff Psychologist, never met claimant and her opinions were based exclusively on a records review, as opposed to an appropriate IRC evaluation; "all the reports are so outdated"; Maple Syrup Urine Disorder causes an inability of the body to "break down protein" and "stops oxygen from reaching the brain," therefore claimant's disabilities are "in his body"; claimant "makes friends but does not know how to keep them"; when claimant was four years old his biological father kidnapped him and claimant lived for four days with his father in a "druggy neighborhood"; claimant has food allergies; claimant's parents are in the process of "doing conservatorship" of claimant; and "I didn't ask for the appeal, it just came to me."

12. Claimant's father<sup>1</sup> testified that he believes claimant is a "Paranoid Schizophrenic" with "no common sense" and "you guys don't know him you only know what is in his file/records."

13. Claimant testified that he had trouble getting his driver's license because it took him "more than four times" to pass the Department of Motor Vehicles test. He finally had to have someone read the examination to him. "Applying things" is a "struggle" for complainant and he has considered suicide in the past.

14. No expert evidence refuted the reports/evaluations reviewed by Dr. Miller and/or her opinion that claimant does not suffer from intellectual disability or another condition qualifying him for regional center services or that claimant has some other substantially handicapping condition that is similar to intellectual disability.

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## LEGAL CONCLUSIONS

1. In enacting the Lanterman Act (Welf. & Inst. Code, § 4500 et seq.), the Legislature accepted its responsibility to provide for the needs of developmentally disabled individuals, and recognized that services and supports should be established to meet the needs and choices of each person with developmental disabilities. (Welf. & Inst. Code, § 4501.)

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<sup>1</sup> This is not the biological father who kidnapped claimant.

2. Welfare and Institutions Code section 4512, subdivision (a), defines developmental disability as follows:

'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 . . . [T]his term shall include intellectual disability, cerebral palsy, epilepsy, and autism. This term shall also include disabling conditions found to be closely related to intellectual disability or to require treatment similar to that required for individuals with an intellectual disability, but shall not include other handicapping conditions that are solely physical in nature.

3. Welfare and Institutions Code section 4642, subdivision (a)(1) provides, in part: "Any person believed to have a developmental disability . . . shall be eligible for initial intake and assessment services in the regional center." (Underline added.)

#### EVALUATION

4. The only competent expert opinions/evidence presented in this matter established that claimant does not have a developmental disability, such as intellectual disability; therefore, IRC properly denied his request for intake assessments and services.



## ORDER

Claimant's appeal is denied.

Dated: April 18, 2018

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ROY W. HEWITT

Administrative Law Judge

Office of Administrative Hearings

## NOTICE

**This is a final administrative decision pursuant to Welfare and Institutions Code section 4712.5. Both parties are bound hereby. Either party may appeal this decision to a court of competent jurisdiction within 90 days.**