

BEFORE THE  
OFFICE OF ADMINISTRATIVE HEARINGS  
STATE OF CALIFORNIA

In the Matter of:

CLAIMANT

vs.

SOUTH CENTRAL LOS ANGELES REGIONAL  
CENTER,

Service Agency.

OAH No. 2018060725

DECISION

This matter was heard by Glynda B. Gomez, Administrative Law Judge with the Office of Administrative Hearings, on July 18, 2018 in Los Angeles, California.

Claimant was represented by his mother.<sup>1</sup>

South Central Los Angeles Regional Center (SCLARC or Service Agency) was represented by Karmell Walker.

Oral and documentary evidence was received, and argument was heard. The record was closed, and the matter was submitted for decision on July 18, 2018.

ISSUE

Does Claimant have a developmental disability entitling him to receive regional center services?

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<sup>1</sup> The names of Claimant and his family members are omitted to protect their privacy.

## FACTUAL FINDINGS

1. Claimant is a three-year and 11-month-old male. He seeks eligibility for regional center services due to his language delay, behavior deficits, and sensory integration issues. Claimant was born with Microtia (underdevelopment of the ear) of the right ear and hearing loss in that ear. He wears a hearing aid and may undergo reconstructive surgery at age six with Children's Hospital.

2. On March 14, 2018, SCLARC sent a letter and Notice of Proposed Action (NOPA) to Claimant's mother informing her that SCLARC had determined Claimant was not eligible for regional center services. Claimant requested a fair hearing and this proceeding ensued. According to the letter, the Service Agency determined that Claimant did not have a substantially-disabling developmental disability. Instead, SCLARC diagnosed Claimant with a Language Disorder. The letter recommended that Claimant obtain regular medical and dental care and an appropriate school speech program. (Exhibit 2.)

3. Claimant is an only child. His parents were teenagers in high school when he was born. They lived for a time with his father's family. Claimant's father became addicted to crystal methamphetamine and was abusive to Claimant's mother. After the Department of Children and Family Services (DCFS) became involved, Claimant and his mother moved to his mother's family home. Claimant has limited visits with his father under the supervision of his paternal grandmother. His mother has full custody. Claimant now lives with his mother, aunt, and maternal grandmother. Both English and Spanish are spoken in the home.

4. Claimant met development milestones as follows: sat up at six months of age, crawled at nine months, walked at 12 months, began putting meaning to words at 12 months, combined words together at 30 months and daytime toilet trained at 36 months. Claimant is ambulatory and can run, but frequently falls and often runs on his

tippy toes. Claimant is very sensitive to loud noise and has not been able to tolerate loud events such as family outings to the Chuck E. Cheese restaurant, does not play well with others including cousins that are known to him, and only tolerates limited foods because of smell and texture aversions. Claimant is non-verbal.

5. Claimant has no history of seizures and does not have cerebral palsy and the parties agree that he is not eligible for SCLARC's services pursuant to either of those diagnoses.

### SCLARC'S ASSESSMENT

6. SCLARC personnel performed both a social and psychological assessment. The social assessment was performed by a social worker employed by SCLARC and gathered relevant information concerning Claimant's family situation and developmental milestones.

7. In November 2017, Jennie M. Mathess (Mathess), a clinical psychologist, conducted a psychological assessment of Claimant. Although Mathess did not testify at the administrative hearing, Laurie McKnight-Brown, a clinical psychologist who also holds a special education teaching credential testified about the instrument used by Mathess and interpreted Mathess' assessment report. McKnight-Brown presented candid, credible and knowledgeable testimony. The assessment was limited to determining whether or not Claimant had a qualifying diagnosis of intellectual disability or autism. To conduct the assessment, Mathess interviewed Claimant's mother, administered the Autism Diagnostic Interview- Revised (ADI-R), Developmental Profile 3 (DP-3), cognitive scale only, Vineland Adaptive Behavior Scales, 3rd Edition (Vineland-3), Comprehensive Parent Form Vineland -3 and the Wechsler Preschool and Primary Scale of intelligence-Fourth Editions (WPPSI-IV). Dr. Mathess also reviewed available medical records.

8. Mathess noted the following in her behavioral observations:

He presented with a typical gait, but tripped and fell several times. His eye contact was fair and coordinated with social smiling. [Claimant] was cooperative throughout the session and displayed fair to poor attention and concentration for structured tasks. He required redirection at times. He did not display any purposeful play with toys, but did hold one up to show the examiner on one occasion. [Claimant] was nonverbal throughout the session. He did not display any echolalia or stereotyped and repetitive behaviors. (Ex. 3)

9. Mathess evaluated Claimant's cognitive functioning using the visual-spatial index of the WPPSI-IV, a standardized intelligence test of verbal and non-verbal cognitive functioning and working memory, and the DP-3, a cognitive scale completed by his parent. Claimant received a standard score of 86 on the WPPSI-IV, within the low average range and a standard score of 78 on the DP-3, in the borderline range. Mathess noted that Claimant did not complete all of the subtests and displayed "an inconsistent pointing response and variable attention." (Ex. 3, p. 3.) Her report did not address whether or not the failure to complete all subtests impacted the validity of the cognitive estimate she gave. However, overall she opined the results were reflective of his abilities.

10. Mathess assessed Claimant's adaptive skills using the Vineland-3 rating scales completed by his mother. Claimant scored in the low range for adaptive skills. Mathess noted the following about Claimant's adaptive functioning:

[Claimant] washes and dries his own hands, feeds himself with a spoon without spilling, pulls up his own pants, is careful about hot objects, puts dirty clothes in their proper

place, and understands the meaning of at least 3 gestures, points to 3 objects pictured in a book, follows if/then instructions, says no, makes sounds or gestures if he wants an activity to stop or keep going, and recognizes his own name in printed form. He does not understand at least 50 words, cannot point to 3 actions shown in pictures, will not pay attention to a story for at least 15 minutes, does not say the name of at least 3 objects, cannot name 3 actions, and does not recognize at least 10 letters of the alphabet. (Ex. 3.)

11. Mathess' assessment showed that Claimant scored in the low average range on the Visual Spatial Index (VSI) of the WPPSI-IV, borderline range on the DP-3 scales and in the low to moderately low range in to adaptive skills. From these scores, observation and interviews, Matthess opined that Claimant does not suffer from an intellectual disability because his assessed cognitive level is too high to be considered for the diagnosis.

12. With respect to Claimant's social functioning, Mathess noted:

[Claimant] was also rated on the Socialization domain of the Vineland-3 and scored in the low range. According to his mother, [Claimant] smiles when he is praised or complimented, recognizes himself in a photo or mirror, plays near other children but doing different things, responds when his mother is playful, seeks his mother out for comfort if he is hurt or upset, and looks or moves toward his mother when a stranger approaches. He does not act interested in children his age, does not recognize emotions in others,

does not make appropriate eye contact, will into play with one or more children for at least 30 minutes, does not share his toys or possessions when told to do so, and cannot change easily from one activity to the next.

13. Mathess used the ADI-R to assess Claimant for autism. The ADI-R consists of four components each with a corresponding cut-off score. A diagnosis of autism requires a score at or above the cut-off in each of the four components. Claimant scored at the cut-off in two domains and one point below the cut-off in each of the other two components. Claimant scored at the cut-off in the components labeled as "Restricted, Repetitive, and Stereotyped Patterns of Behavior" and "Abnormality of Development Evident at or before 36 months." Claimant scored one point below the cut-off in the components labeled "Qualitative Abnormalities in Reciprocal Social Interaction" and "Qualitative Abnormalities in Communication." Based upon the ADI-R, interviews and a clinical observation, Mathess opined that Claimant did not meet the criterion for an autism diagnosis.

## 2018 SCHOOL DISTRICT ASSESSMENT

14. In January of 2018, Claimant was assessed for special education services by a District preschool assessment team. He was assessed to determine eligibility under the categories of hard of hearing, intellectual disability and autism. School psychologist Dan Feldman (Feldman) conducted an assessment consisting of a behavior observation, review of records, parent interview and teacher interview. He also administered the DP-3, Mullen Scales of Early Learning (MSEL), and Childhood Autism Rating Scale, Second Edition (CARS-2). A speech and language pathologist attempted to assess Claimant, but was unable to conduct a formal assessment because of his failure to respond and behavior issues. Feldman did not testify at the administrative hearing. His report was

admitted without objection. Because it was prepared after Mathess' assessment, it was not available to Mathess when she assessed Claimant.

15. The school district does not administer standardized intelligence tests to its students. Instead, an estimate of cognitive ability is made based upon a battery of testing. Based upon the MSEL, DP-3, interviews and observations, Feldman estimated that Claimant's cognitive ability was in the "well-below average" range and reflected relatively similar skill levels in all areas measured (visual reception, fine motor, expressive language and receptive language). Feldman identified Claimant's behavior and lack of compliance as factors that potentially impacted his performance on the assessment and his education. (Ex. 6)

16. Feldman found Claimant's language abilities to be in the delayed range. Specifically, it was noted that Claimant was able to "babble vocalization occasionally respond to his name when it is called, understands the meaning of 'no', and sometimes imitates words." Additionally, he noted challenges including "following basic directions without visual cuing assistance, an inability to verbalize any true words with intent, or spontaneous short novel phrases. He verbally self-stimulates, will make random vocalizations and confuses yes/no questions."

17. Feldman also assessed Claimants' motor skills using the DP-3, interviews and observations. Claimant's motor skills were assessed to be in the below average range.

#### INDIVIDUALIZED EDUCATION PROGRAM (IEP)

18. After the assessment, Claimant was made eligible for special education as a student with autism and a low incidence/secondary eligibility of hard of hearing. He is placed in a special education pre-school program for 20 hours per week. He also receives speech and language pathologist and deaf hard of hearing itinerant teacher services. His IEP contains five goals: 1) development of auditory skills using properly

functioning hearing technology 80% of the time; 2) following one step directions 80 % of the time; 3) communication using multi-modal methods of communication to communicate wants and needs; 4) social emotional "following the lead of other children and join in classroom activities with a maximum of two adult reminders during the school day"; and 5) social emotional "play alongside another child, with at least 2 interactions, for at least 5 minutes on 4 occasions during a school week." (Ex. 5)

19. Claimant's February 14, 2018 IEP notes his then-present level of performance in the area of communication as:

...uses limited utterances, pointing, and gestures to communicate his wants and needs. At this time, he does not attempt to use words to communicate intentionally.

[Claimant] would not respond to therapist throughout the assessment nor was he observed to ask for needs/wants to be met. [Claimant] demonstrates delayed functional communication skills at this time. It is noted that limited expressive language skills may impact his ability to be consistently understood when communicating with peers and adults. (Ex. 5.)

20. With regard to Claimant's overall social emotional functioning, the IEP notes his present level of performance as follows:

Overall, [Claimant's] social emotional status is found to be in the well below average range. Based on observations, informal interviews and the rater's responses on formal rating scales, [Claimant] evidences the following strengths: He will explore new places, appears to seek affection when



he wants from his parents and can wave, 'bye bye'.

[Claimant] evidence the following needs/challenges: He does not bring things to people when asked to without physical gesturing, understand the concept of 'my', stays occupied on one activity for at least 15 minutes in a row, or name a friend with whom he spends time with. (Ex. 5.)

21. With regard to self-help/adaptive behavior, the IEP notes Claimant's present levels of performance as:

Overall, [Claimant's self-help/adaptive behavior is found to be in the low average range.

Based on the rater's responses on the Developmental Profile 3, [Claimant] evidences the following strengths: He is able to drink from a regular cup, remove his socks and shoes independently, assist with dressing, remember where certain things belong in the house when asked to put things away (he does not like to clean up), and remove a t-shirt by himself (pulls from the back). He is able to urinate in the toilet; however he has a bathroom routine that needs to be followed.

[Claimant] evidence the following needs/challenges: He does not yet put on his shoes by himself, wash his hands and face with soap and water appropriately, or dress himself without

assistance. He especially enjoys the feel of water, and can persevere with it for a long time if allowed to. (Ex. 5.)

22. The IEP also noted that Claimant's "overall functioning in cognition/general ability is estimated to be within the well-below average range." His language skills were in "the delayed range", his motor skills in the "below average range" Claimant was not able to walk upstairs with alternating feet, throw or catch a ball consistently or draw directional lines with a crayon. The assessor also noted that Claimant often runs on his toes. (Ex.5.)

#### TESTIMONY

23. According to SCLARC psychologist McKnight-Brown, the CARS-2 used by the school psychologist is a screening tool. Typically, the CARS-2 is used to determine whether further testing specific to autism is warranted. According to McKnight-Brown, the CARS-2 did provide information that suggested further examination of potential autism should be explored. Further testing would typically include either an ADI-R such as that conducted by Mathess or the Autism Diagnostic Observation Schedule (ADOS) which requires specific training and certification. McKnight-Brown testified that the ADOS requires more observation than does the ADI-R used by Mathess which consists of a structured clinical interview and observation. Claimant's mother believes that the school district conducted a more thorough assessment of Claimant and got to know him in a way that the SCLARC assessor did not and could not in a short office observation. When asked about whether additional observation might be useful in this case, McKnight-Brown acknowledged that additional observation could be helpful in this case.

24. Overall, more weight was given to the assessment conducted by the school district than that conducted by Mathess based on the depth and breadth of the

school district assessment and its consistency with the testimony of mother and McKnight-Brown.

## LEGAL CONCLUSIONS

1. Claimant established that he is substantially disabled by autism, a developmental disability which entitles him to regional center services under the Lanterman Developmental Disability Services Act (Lanterman Act).

2. Throughout the applicable statutes and regulations (Welf. & Inst. Code, §§ 4700 - 4716, and Cal. Code Regs., tit. 17, §§ 50900 - 50964), the state level fair hearing is referred to as an appeal of the Service Agency's decision. A claimant seeking to establish eligibility for government benefits or services has the burden of proving by a preponderance of the evidence that he has met the criteria for eligibility. (*Lindsay v. San Diego Retirement Bd.* (1964) 231 Cal.App.2d 156, 161[disability benefits]; *Greator v. Board of Admin.* (1979) 91 Cal.App.3d 54, 57 [retirement benefits]; Evid. Code, § 500.) Where a claimant seeks to establish eligibility for regional center services, the burden is on the appealing claimant to demonstrate by a preponderance of evidence that the Service Agency's decision is incorrect and that the appealing claimant meets the eligibility criteria. Claimant has met his burden of proof in this case.

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

a disability that originates before an individual attains 18 years of age; 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.

4(a). To prove the existence of a qualifying developmental disability within the meaning of Welfare and Institutions Code section 4512, a claimant must show that she has a "substantial disability." Pursuant to Welfare and Institutions Code section 4512, subdivision (1)(1):

"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:

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

4(b). Additionally, California Code of Regulations, title 17, section 54001 states, in pertinent part:

- (a) "Substantial disability" means:
  - (1) A condition which results in major impairment of cognitive and/or social functioning, representing sufficient impairment to require interdisciplinary

- planning and coordination of special or generic services to assist the individual in achieving maximum potential; and
- (2) The existence of significant functional limitations, as determined by the regional center, in three or more of the following areas of major life activity, as appropriate to the person's age:
- (A) Receptive and expressive language;
  - (B) Learning;
  - (C) Self-care;
  - (D) Mobility;
  - (E) Self-direction;
  - (F) Capacity for independent living;
  - (G) Economic self-sufficiency.

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

5(b). Whereas the first four categories of eligibility are very specific, the disabling conditions under this residual fifth category are intentionally broad to encompass unspecified conditions and disorders. However, this broad language is not intended to be a catchall, requiring unlimited access for all persons with some form of learning or behavioral disability. There are many persons with sub-average functioning and impaired adaptive behavior; under the Lanterman Act; the Service Agency does not have a duty to serve all of them.

5(c). The Legislature requires that the qualifying condition be “closely related” to intellectual disability (Welf. & Inst. Code, § 4512) or “require treatment similar to that required” for individuals with intellectual disability (Welf. & Inst. Code, § 4512.) The definitive characteristics of intellectual disability include a significant degree of cognitive and adaptive deficits. Thus, to be “closely related” to intellectual disability, there must be a manifestation of cognitive and/or adaptive deficits which render that individual’s disability like that of a person with intellectual disability. However, this does not require strict replication of all of the cognitive and adaptive criteria typically utilized when establishing eligibility due to intellectual disability (e.g., reliance on I.Q. scores). If this were so, the fifth category would be redundant. Eligibility under this category requires an analysis of the quality of a claimant’s cognitive and adaptive functioning and a determination of whether the effect on her performance renders him like a person with intellectual disability. Furthermore, determining whether a claimant’s condition “requires treatment similar to that required” for persons with intellectual disability is not a simple exercise of enumerating the services provided and finding that a claimant would benefit from them. Many people could benefit from the types of services offered by regional centers (e.g., counseling, vocational training, living skills training, speech therapy, or occupational therapy). The criterion is not whether someone would benefit. Rather, it is whether someone’s condition *requires* such treatment as that required by a person with intellectual disability.

6. In order to establish eligibility, a claimant’s substantial disability must not be solely caused by an excluded condition. The statutory and regulatory definitions of “developmental disability” (Welf. & Inst. Code, § 4512; Cal. Code. Regs., tit. 17, § 54000) exclude conditions that are solely physical in nature. California Code of Regulations, title 17, section 54000, also excludes conditions that are solely psychiatric disorders or solely learning disabilities. Therefore, a person with a “dual diagnosis,” that

is, a developmental disability coupled either with a psychiatric disorder, a physical disorder, or a learning disability could still be eligible for services. However, someone whose conditions originate only from the excluded categories (psychiatric disorder, physical disorder, or learning disability, alone or in some combination) and who does not have a qualifying developmental disability would not be eligible.

7. The Lanterman Act and its implementing regulations contain no definition of the qualifying developmental disability of “intellectual disability.” Consequently, when determining eligibility for services and supports on the basis of intellectual disability, that qualifying disability has been defined as congruent to the DSM-5 diagnostic definition of intellectual disability.

8. The DSM-5 describes Intellectual Disability as follows:

Intellectual disability ... is a disorder with onset during the developmental period that includes both intellectual and adaptive functioning deficits in conceptual, social and practical domains. The following three criteria must be met:

- A. 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.
- B. Deficits in adaptive functioning that result in failure to meet developmental and socio-cultural standards for personal independence and social responsibility. Without ongoing support, the adaptive deficits 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.

C. Onset of intellectual and adaptive deficits during the developmental period.  
(Ex. 7.)

9. The DSM-5 notes the need for assessment of both cognitive capacity and adaptive functioning. The DSM-5 also notes that the severity of intellectual disability is determined by adaptive functioning rather than IQ score. (Ex.7.)

10(a). Claimant does not meet the criteria under the DSM-5 for a diagnosis of Intellectual Disability. To meet the criteria for a DSM-5 diagnosis of intellectual disability, a person must have deficits in intellectual functioning (demonstrated through clinical assessment and standardized testing), and deficits in adaptive functioning. Claimant's cognitive functioning has been determined to be in the range of borderline to low average. Claimant demonstrated global adaptive deficits scoring in the low range on rating scales. Because Claimant's scores on cognitive measures are above the level achievable by a person with intellectual disability he does not meet criterion A. As such regardless of the deficits in adaptive skills, he does not meet the diagnostic criteria for intellectual disability under the DSM-5. Consequently, the preponderance of the evidence did not demonstrate that Claimant qualifies for regional center services under the category of intellectual disability.

10(b). Furthermore, although Claimant suffers from adaptive deficits, Claimant has failed to establish that he currently demonstrates deficits in both cognitive and adaptive functioning to such a degree and in such a manner that he presents as a person suffering from a condition similar to intellectual disability. Moreover, there was insufficient evidence to establish that Claimant currently requires treatment similar to that required for individuals with Intellectual Disability. Claimant failed to provide evidence of any services offered by SCLARC that he required and would also be required for individuals with intellectual disability. Based on the foregoing, Claimant does not fall under the fifth category of eligibility at this time.



11. As with intellectual disability, the Lanterman Act and its implementing regulations contain no definition of the qualifying developmental disability of “autism.” Consequently, when determining eligibility for services and supports on the basis of autism, that qualifying disability has been defined as congruent to the DSM-5 definition of “Autism Spectrum Disorder.”

12. The DSM-5, section 299.00 discusses the diagnostic criteria which must be met to provide a specific diagnosis of Autism Spectrum Disorder, as follows:

- A. Persistent deficits in social communication and social interaction across multiple contexts, as manifested by the following, currently or by history (examples are illustrative, not exhaustive; see text):
  - 1. Deficits in social-emotional reciprocity, ranging, for example from abnormal social approach and failure of normal back-and-forth conversation; to reduced sharing of interests, emotions, or affect; to failure to initiate or respond to social interactions.
  - 2. Deficits in nonverbal communicative behaviors used for social interaction, ranging, for example, from poorly integrated verbal and nonverbal communication; to abnormalities in eye contact and body language or deficits in understanding and use of gestures; to a total lack of facial expressions and nonverbal communication.
  - 3. Deficits in developing, maintaining, and understanding relationships, ranging, for example from difficulties adjusting behavior to suit various social contexts; to difficulties in sharing imaginative play or in making friends; to absence of interest in peers. [¶] ... [¶]
- B. Restricted, repetitive patterns of behavior, interests, or activities, as manifested by at least two of the following, currently or by

history (examples are illustrative, not exhaustive; see text):

1. Stereotyped or repetitive motor movements, use of objects, or speech (e.g., simple motor stereotypies, lining up toys or flipping objects, echolalia, idiosyncratic phrases).
  2. Insistence on sameness, inflexible adherence to routines, or ritualized patterns of verbal or nonverbal behavior (e.g., extreme distress at small changes, difficulties with transitions, rigid thinking patterns, greeting rituals, need to take same route or eat same food every day).
  3. Highly restricted, fixated interests that are abnormal in intensity or focus (e.g., strong attachment to or preoccupation with unusual objects, excessively circumscribed or perseverative interests).
  4. Hyper- or hyporeactivity to sensory input or unusual interests in sensory aspects of the environment (e.g., apparent indifference to pain/temperature, adverse response to specific sounds or textures, excessive smelling or touching objects, visual fascination with lights or movement). [11] ... [11]
- C. Symptoms must be present in the early developmental period (but may not become fully manifest until social demands exceed limited capacities, or may be masked by learned strategies in later life).
- D. Symptoms cause clinically significant impairment in social, occupational, or other important areas of current functioning.
- E. These disturbances are not better explained by intellectual disability (intellectual development disorder) or global developmental delay. Intellectual disability and autism spectrum disorder frequently co-occur; to make comorbid diagnoses of autism spectrum disorder and intellectual disability, social communication should be below that expected for general developmental level.

13. Claimant meets the criteria under the DSM-5 for a diagnosis of autism spectrum disorder. Specifically, both assessors found evidence, and his mother reported, that he has the type of persistent deficits in social communication and social interaction contemplated by the DSM-5 in prong A of the diagnostic criteria. The DSM-5 also requires that one must demonstrate two of the four categories of characteristics set forth in prong B of the criteria. Here, Claimant demonstrates the insistence on sameness, difficulties with transitions and resistance to different foods exemplified in category 2 and the sensory processing issues set forth in category 4 thereby satisfying the requirements of prong B of the diagnostic criteria. Claimant's symptoms have been present since early development as required by prong C of the diagnostic criteria, cause clinically significant impairment in social, occupational, and other important areas of current functioning as required by prong D of the diagnostic criteria and are not better explained by intellectual disability or global developmental delay as required by prong E.

14. Claimant is substantially disabled by his autism. His condition results in a major impairment of social functioning which requires services and presents significant functional limitations in receptive and expressive language, learning, self-care and self-direction as demonstrated by the SCLARC assessment, school assessment and witness testimony.

15. Claimant has established that he is eligible for regional center services under the diagnosis of autism. The testing and observations of both Feldman and Mathess as well as the testimony of Mother and McKnight-Brown's interpretation of the SCLARC testing instruments and results establish that Claimant has Autism Spectrum Disorder and is substantially disabled by it.

16. The preponderance of the evidence established that Claimant is eligible to receive regional center services.

## ORDER

Claimant's appeal is granted. The Service Agency's determination that Claimant is not eligible for regional center services is overruled.

DATED:

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GLYNDA B. GOMEZ

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.