

**BEFORE THE  
OFFICE OF ADMINISTRATIVE HEARINGS  
STATE OF CALIFORNIA**

**In the Matter of:**

**CLAIMANT**

**vs.**

**SAN GABRIEL/POMONA REGIONAL CENTER, service agency**

**OAH No. 2019040057**

**DECISION**

Thomas Y. Lucero, Administrative Law Judge, Office of Administrative Hearings, State of California, heard this matter on June 7 and July 24, 2019, in Pomona, California.

Daniel Ibarra, Fair Hearing Manager, represented San Gabriel/Pomona Regional Center (Service Agency or Regional Center). Rebecca A. Taft, Attorney at Law, Children's Law Center of California, represented claimant. Titles are used to protect confidentiality.

Oral and documentary evidence was received. The record was closed and the matter was submitted for decision on July 24, 2019.

## **ISSUE PRESENTED**

Whether claimant is eligible for services from the Service Agency based on autism or Autism Spectrum Disorder (ASD) or any other substantially disabling condition.

## **FACTUAL FINDINGS**

1. Claimant is a three-year, three-month-old male who, before age three, received services under the Early Start Program due to developmental delays. Such services generally, and in claimant's case did, end on the child's third birthday.

2. On February 20, 2019, the service agency's Intake Service Coordinator, Efraim Wong, wrote to Chinde Quines, claimant's child social worker (CSW) at the Department of Children and Family Services (DCFS). Mr. Wong's letter confirmed the service agency's decision to close claimant's case because he was not found to have a developmental disability as defined in the Lanterman Developmental Disabilities Services Act (Lanterman Act), codified in Welfare and Institutions Code sections 4500 through 4885.

3. Enclosed with Mr. Wong's letter was a February 20, 2019 Notice of Proposed Action (NOPA). The NOPA indicated that the decision to close claimant's case was based primarily on a December 4, 2018 psychological assessment by Dr. Cynthia Bautista, Psychologist, which is described in more detail below.

4. Claimant's foster mother submitted a Fair Hearing Request on March 11, 2018. She indicated that a reevaluation should be performed of claimant's "conditions

and behaviors [that] are substantially disabling in several areas of functioning.” (Exh. 2.)

5. Claimant received services from the Early Start Program following Ms. Quines and the DCFS’s submission of an April 18, 2016 referral form, which stated that an assessment must be performed pursuant to a court order. The referral form shows that speech delays were of particular concern. Claimant is described as non-verbal. The assessment was to examine other potential, unspecified developmental delays. (Exh. 4.)

6. The service agency’s Early Start Statement of Eligibility is dated July 27, 2016. The service agency administered several tests and cleared claimant for Early Start services in (i) social skills, (ii) adaptive skills, (iii) language, (iv) cognition, and (v) motor skills. Claimant was to receive speech and language therapy in receptive language and expressive language once per week for six months. (Exh. 4.)

7. Claimant’s Early State Individualized Family Service Plan (IFSP), Exhibit 5, was prepared in August 2016, following an IFSP meeting on August 16, 2016. Foster mother stated that her primary concern for claimant was his overall development. Under Concerns and Priorities, the IFSP states that a psychological evaluation was declined, but claimant’s parent and foster mother both indicated that they “would like [claimant] to learn/say more words speak clearly . . . .” (Exh. 5, p. 21.) Under Development Status, the IFSP notes that claimant was 27 months old, but his level of cognitive development was 20 months. His physical development level with respect to gross motor skills was assessed at 17 months. Claimant’s lowest level of development, was in expressive language, estimated at 12 to 15 months. His receptive communication skills, relating to understanding words, objects, and simple commands, was estimated at 21 to 24 months. (Exh. 5, p. 23.)

8. In a March 10, 2017 letter, the service agency advised CSW Quines that claimant's Early Start services would terminate in mid-April 2017. (Exh. 6.)

9. On August 20, 2018, claimant had a physical examination in connection with a referral to the service agency. (Exh. 7.) The referral form notes that CSW Quines was to obtain any necessary court order or consent for a psychiatric examination. The service agency was also asked to rule out autism.

10. Autism, as the term is used in the referral form noted above and in other documentation relating to claimant, is equivalent to ASD. The legislature has recognized that the terms are equivalent in Welfare and Institutions Code section 4643.3, subdivision (a)(1), which provides, in pertinent part, "the department [DDS] shall develop evaluation and diagnostic procedures for the diagnosis of autism disorder and other autistic spectrum disorders."

11. The Lanterman Act does not define autism or ASD. Whether a person has such a disorder is generally considered under diagnostic criteria set forth in the Diagnostic and Statistical Manual of Mental Disorders, Fifth Edition (DSM-5).

A. The DSM-5 criteria for ASD include, in category 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): 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. The DSM-5 criteria for ASD include, in category 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):

1. Stereotyped or repetitive motor movements, use of objects, or speech (e.g., simple motor stereotypes, 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 hypo-reactivity to sensory input or unusual interest in sensory aspects of the environment (e.g. apparent indifference to pain/temperature, adverse response to specific sounds or textures, excessive smelling or touching of objects, visual fascination with lights or movement).

C. Among the DSM-5 criteria for ASD one finds in category 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. The DSM-5 criteria include in category D: Symptoms cause clinically significant impairment in social, occupational, or other important areas of current functioning.

12. On November 17, 2017, Puente Hills Special Education Local Plan Area (SELPA) prepared an Individualized Education Plan (IEP). The IEP's Eligibility Statement states that claimant "appears to meet the eligibility criteria of . . . SLI [specific language impairment] as characterized by borderline/at-risk delays in expressive language, with limited use of age-appropriate morpho-syntactic features and a diminished mean length of utterances." (Exh. 9, p. 41.) Under Communication Development, the IEP states that "[f]ormal testing was attempted unsuccessfully; results of [claimant's] standardized tests . . . should be interpreted with caution due to limited cooperation and no response." (Exh. 9, p. 43.) It continues: "The free-speech language analysis revealed . . . some weaknesses . . . . Social skills appear appropriate for a classroom. The sum of the communication assessment appears to suggest that there is an approximate 6-7 month delay in language development; [claimant's] overall language performance likely falls somewhere near the borderline/at-risk range." (*Ibid.*) Under Adaptive/Daily Living Skills, the IEP recounts mother's report that claimant "can take off shoes or socks without help . . .," had little trouble handling utensils to eat and drink without help, and could take off clothes and put them away on his own. (Exh. 9, p. 44.)

13. Personnel of the Hacienda La Puente Unified School District performed a Multidisciplinary Preschool Team Evaluation (preschool evaluation). The team for the preschool evaluation consisted of a school nurse, a school psychologist intern, a school psychologist, and a speech-language pathologist. The team's report, dated October 23, 2017, notes that claimant had been referred by the service agency.

"[Claimant] smiled and made good eye contact when greeted by the examiners." (Exh. 10, p. 63.) "In sum, [claimant] presents as a happy, friendly, and strong willed little boy. [Claimant] actively seeks attention from others, initiates interactions, engages in pretend play, and demonstrates good eye contact and a reciprocal social smile. When he is upset, he was noted to walk away and pout. However, as aforementioned, he was observed to quickly recover from a setback." (Exh. 10, p. 64.)

14. The preschool evaluation team attempted to administer the Stanford Binet Intelligence Scales, Fifth Edition (SB5), consisting of 10 subtests that yield a Full Scale IQ. The SB5 was discontinued because claimant did not sufficiently cooperate.

15. With limited success, the preschool evaluation team was able to administer the Developmental Indicators for the Assessment of Learning, Fourth Edition (DIAL-4). Success was limited because claimant refused to perform many tasks. The DIAL-4 is intended to measure the developmental skills that are the basis for academic learning. Despite the limited success, the DIAL-4's "Concepts area standard score was 77, which corresponds to a percentile rank of 6% . . . [a] score . . . in the Potential Delay range." (Exh. 10, p. 65.)

16. The preschool team administered the Developmental Profile 3 (DP-3), which is based upon responses of others, in claimant's case responses by his foster mother. Claimant's overall general development score as measured by the DP-3 was in the ninth percentile, falling within a range that was below average: (i) on the Physical Scale, claimant's score was below average, in the ninth percentile, at the age level of two years and two months; (ii) on the Adaptive Behavior Scale, claimant's score was below average, in the fourth percentile, at the age level of two years and one month; (iii) on the Social-Emotional Scale, his score was below average, in the twelfth percentile, at the age level of two years and four months; (iv) on the Cognitive

Scale, his score was average, in the forty-second percentile, at the age level of three years and zero months; (v) on the Communication Scale, his score was average, in the thirtieth percentile, at the age level of three years and one month. (Exh. 10, p. 65.)

17. Lourdes Hernandez, a Speech-Language Pathologist on the preschool team, evaluated claimant on September 5, 2017.

A. She had claimant's mother complete a child case history form to provide information on claimant's perceived areas of strength and weakness, on his family and social life, and on communication between him and his parents. Mother reported that claimant had first encountered difficulties with walking and talking when he was 18 months old. But she thought claimant had improved, being "more talkative and walking a lot more." (Exh. 10, p. 67.)

B. During the pathologist's observation, claimant greeted his mother and her companion, saying "come on" to tell the companion that he should play with claimant. (Exh. 10, p. 68.) Claimant's comments were noted to be limited. Some were unintelligible, but claimant "demonstrated adequate speech intelligibility." (*Ibid.*) Regarding receptive language, claimant supplemented oral language with gestures. "Both [foster mother] and [mother] report no concerns with receptive language." (*Ibid.*) The Observation Impression was that claimant "presents with meaningful eye contact, directed social smile and general social awareness. [Claimant] is friendly, active, and communicative; he enjoys the attention of adults . . . ." (Exh. 10, p. 69.)

C. Claimant underwent a number of other, language related tests and assessments, from which the conclusion was: "[Claimant] speaks in primarily 2- and 3 word phrases, with some weaknesses in the area of grammatical markings, such as possessive's, present progressive verb *-ing*, and the understanding and expressive use



of *in* and *on*. Social skills appear appropriate for a classroom. [Claimant's] expressive language performance likely falls somewhere near the borderline/at-risk range." (Exh. 10, p. 77.)

18. Deborah Langenbacher, Ph.D., staff psychologist at the service agency, testified at the hearing on July 24, 2019. Dr. Langenbacher wrote in a September 18, 2018 interdisciplinary note (ID note), that she had reviewed claimant's IEP and the results of the many tests administered him. Dr. Langenbacher noted that claimant "was unable to complete IQ testing." (Exh. 12.) Her recommendation was: "Re-eval[uation] needed to determine RC [service agency] eligibility, including IQ testing (WPPSI-IV) [i.e., Wechsler Preschool and Primary Scale of Intelligence, Fourth Edition] and eval[uation] of adaptive skills." (*Ibid.*)

19. The service agency prepared a November 25, 2018 Social Assessment.

A. The Social Assessment noted that claimant "was referred to [the service agency] by DCFS to rule out/determine regional center eligibility for Autism. Concerns noted include speech delay and gross motor delays." (Exh. 13, p. 87.) Another of DCFS's concerns noted later in the Social Assessment is "aggressive behaviors." (Exh. 13, p. 93.)

B. Under Current Medical Situation, the service agency noted that claimant had his most recent routine physical examination on August 20, 2018, following which the physician expressed concerns regarding claimant's "delayed developmental milestones, behavioral problems, abnormal gait, allergic rhinitis [i.e., inflammation and swelling of mucous membranes in the nose], and cerebral cavernoma [i.e., a cluster of abnormal blood vessels]." (Exh. 13, p. 90.)

C. The Social Assessment summarized in part that claimant had great difficulty walking because of an awkward gait. It continued: "In the area of independence skills, [claimant] needs a great deal of help to get himself ready during the day. He requires help in the areas of dressing, bathing, and brushing his teeth. . . . [Claimant] struggles to connect with others due to aggression. He bites, hits, and tantrums when he does not get his way. . . . [Claimant] has had an IEP . . . and . . . qualifies under a speech and language disability. He receives speech therapy once a week but foster family would like to see him receive more therapy as well as behavioral support." (Exh. 13, p. 93.)

D. Recommendations included that the service agency complete a Psychological Assessment before an interdisciplinary team meeting to determine eligibility for services.

20. On December 4, 2018, Cynthia Bautista, Psy.D., conducted the service agency's Psychological Evaluation. The evaluation included a clinical interview, review of records, clinical observations, and play observations. Dr. Bautista also administered the WPPSI-IV, the Adaptive Behavior Assessment System, Third Edition (ABAS-3), and the Autism Diagnostic Observation Schedule, Second Edition, Module 1 (ADOS-2).

A. Regarding language and social development: Foster mother advised Dr. Bautista that claimant's receptive and expressive communication skills were delayed. She also reported that claimant did not initiate or engage in social interactions with other children, that he has bitten and hit other children, prefers playing alone, and did not maintain consistent eye contact.

B. Regarding emotional development: Foster mother reported that claimant has tantrums, approximately ten minutes long, approximately five times per

day. They were triggered when claimant did not get his way or was not understood when trying to communicate. He was aggressive toward animals, such as trying to choke the family cat. "[Claimant] can also be randomly very affectionate towards others, including strangers. He loves to hug but does not understand boundaries." (Exh. 14, p. 103.)

C. Dr. Bautista noted results of the WPPSI-IV: Claimant's Full Scale IQ (FSIQ) score "was measured in the Borderline range when compared to other children his age . . . ." (Exh. 14, p. 104.) On the Verbal Comprehension Index (VCI), claimant's performance on subtests was "Extremely low. . . . Overall, [claimant's] performance on the VCI was an area of relative weakness compared to his overall level of ability and consistent with his reported difficulties with expressive and receptive language." (*Ibid.*) "Visual spatial processing involves organizing visual information . . . . [V]isual spatial processing was [one of claimant's] strengths, with performance that was in the Average range . . . ." (*Ibid.*) "Overall, [claimant's] performance on subtests within [the Fluid Reasoning Index] is considered Low Average . . . ." (*Ibid.*) On the Working Memory Index, claimant was in the Borderline range. On the Processing Speed Index and the Nonverbal Index his performance was in the Low Average range. His performance was in the Borderline range on the General Ability Index, which "provides an estimate of general intelligence that is less sensitive to the influence of working memory and processing speed difficulties than FSIQ." (Exh. 14, p. 106.) Claimant's "performance on [the Cognitive Proficiency Index] suggests that he exhibits Borderline efficiency when processing cognitive information in the service of learning, problem solving, and higher-order reasoning." (*Ibid.*)

D. Dr. Bautista interviewed claimant's mother to obtain scores on the ABAS-3. He scored in the Extremely Low range. "His General Adaptive Composite

(GAC) score was 50, which reflects skills in the <0.1% percentile when compared to his same-aged peers." (Exh. 14, p. 106.) Claimant's scores in the Conceptual, Social, and Practical Domains were likewise in the Extremely Low range and the <0.1% percentile.

E. Dr. Bautista administered the ADOS-2 to claimant, an assessment designed to evaluate those "suspected of having autism spectrum disorders that are pre-verbal or have only single words." (Exh. 14, p. 108.) Dr. Bautista found claimant in the non-Spectrum category. She noted, however, that he "demonstrated mild difficulty with Gestures, Spontaneous Initiation of Joint Attention, and Quality of Social Overtiness." (*Ibid.*) "The overall quality of his social interactions and responses were comfortable and appropriate." (*Ibid.*) Regarding imagination and creativity: "No unusual restricted or repetitive behaviors or interests were observed." (*Ibid.*) [Claimant] was able to easily transition to the next activity. He was smiling throughout the assessment. When examiner smiled at [him], he immediately responded with a smile. . . . Overall, [claimant's] performance appears to be consistent with that of an individual with a non-spectrum diagnosis." (Exh. 14, pp. 108-109.)

F. Dr. Bautista consulted standard psychological reference works, the DSM-5, and the ICD-10 (the 10th revision of the International Statistical Classification of Diseases and Related Health Problems). She summarized: "Based on available records, clinical interview, parent report and psychological testing, [claimant] currently does not meet criteria for a diagnosis of Intellectual Disability or Autism Spectrum Disorder. [Claimant] does display noncompliance and behavior aggressive problems at home and at school. Due to these behavioral difficulties, [claimant] is diagnosed with **Unspecified Disruptive, Impulse-Control, and Conduct Disorder**. His development history also points to concerns regarding communication and sensory

processing difficulties. [Claimant] also has difficulties self-regulating his emotions and reacts with intense aggression.” (Exh. 14, p. 110, *emph. in orig.*)

21. A February 20, 2019 ID Note, Gabby Castillo, the service agency’s Manager of Intake Services, references claimant’s medical records. Ms. Castillo wrote that because there was no history of cerebral palsy or epilepsy, a medical evaluation of claimant was waived. (Exh. 15.) Also on February 20, 2019, the service agency’s eligibility team conference took place. Its Statement of Eligibility on the same date closes claimant’s case, finding him “not developmentally disabled” (Exh. 16, p. 151), based on Dr. Bautista’s Psychological Evaluation.

22. In a letter dated March 26, 2019, Guadalupe Del Campo, a clinician in Adolescent Mediation and Family Therapy services at Five Acres, a child care agency in Altadena, California, wrote to CSW Quines that claimant and his family had received counseling and would benefit from further sessions. (Exh. A.)

## **LEGAL CONCLUSIONS**

1. The party asserting a claim generally has the burden of proof in administrative proceedings. In this case, claimant bears the burden of proving that he is eligible for services from the service agency. (Evid. Code, § 500.) Claimant did not meet his burden.

2. “Burden of proof” means the obligation of a party to establish by evidence a requisite degree of belief concerning a fact in the mind of the trier of fact or the court; except as otherwise provided by law, the burden of proof requires proof by a preponderance of the evidence. (Evid. Code, § 115.) “‘Preponderance of the evidence means evidence that has more convincing force than that opposed to it.’

(citations omitted) . . . . The sole focus of the legal definition of 'preponderance' in the phrase 'preponderance of the evidence' is on the *quality* of the evidence. The *quantity* of evidence presented by each side is irrelevant." (*Glage v. Hawes Firearms Company* (1990) 226 Cal.App.3d 314, 324-325, emphasis in original.) In meeting the burden of proof by a preponderance of the evidence, claimant "must produce substantial evidence, contradicted or uncontradicted, which supports the finding." (*In re Shelley J.* (1998) 68 Cal.App.4th 322 at p. 329.) Except as otherwise provided by law, a party has the burden of proof as to each fact, the existence or nonexistence of which is essential to the claim for relief or defense that the party is asserting. (Evid. Code, § 500.) When a party, like claimant, seeks to obtain government benefits or services, that party bears the burden of proof. (See, e.g., *Lindsay v. San Diego Retirement Bd.* (1964) 231 Cal.App.2d 156, 161-162 (disability benefits); *Greator v. Board of Admin.* (1979) 91 Cal.App.3d 54, 56-58 (retirement benefits).

3. Under Welfare and Institutions Code section 4502, subdivision (b)(1), "persons with developmental disabilities" have a "right to treatment and habilitation services and supports . . . ." Welfare and Institutions Code section 4512, subdivision (a), defines a developmental disability that makes a person eligible for services and supports from the service agency: A developmental disability that "originates before a person attains 18 years of age; continues, or can be expected to continue, indefinitely; and constitutes a substantial disability for that individual." (*Ibid.*) Such disabilities fall into five categories. The first four are (i) intellectual disability (ID), (ii) cerebral palsy, (iii) epilepsy, and (iv) autism. The fifth category includes "disabling conditions found to be closely related to intellectual disability or to require treatment similar to that required for individuals with an intellectual disability . . . ." (*Ibid.*) The fifth category is less specific than the first four because it encompasses unspecified conditions and disorders. The fifth category is not a catchall, however, providing unlimited access for

all persons with some form of learning or behavioral disability. The service agency is not required to serve many persons with less than average functioning and impaired adaptive behaviors. Not eligible under any of the five categories, moreover, are "handicapping conditions that are solely physical in nature." (*Ibid.*)

4. Under Welfare and Institutions Code section 4512, subdivision (1)(1), a developmental disability is "substantial" when it causes "significant functional limitations, as determined by a regional center, in three or more of the following areas of major life activity, as appropriate to the person's age: (A) Self-care. (B) Receptive and expressive language. (C) Learning. (D) Mobility. (E) Self-direction. (F) Capacity for independent living. (G) Economic self-sufficiency."

5. Also pertinent here is California Code of Regulations, title 17, section 54001, subdivision (a)(1): a substantial disability "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 . . . ."

6. California Code of Regulations, title 17, section 54000, excludes from eligibility those conditions that are solely psychiatric disorders or solely learning disabilities. A claimant with a dual diagnosis, a developmental disability coupled either with a psychiatric disorder, a physical disorder, or a learning disability, could still be eligible for services. But the claimant whose conditions originate only from excluded categories (psychiatric disorder, physical disorder, or learning disability, alone or in some combination) and who does not have a developmental disability, would be ineligible.

7. At the hearing, claimant did not claim eligibility for services under the Lanterman Act's first three categories, and there was no evidence that claimant has been diagnosed with ID, cerebral palsy, or epilepsy. Claimant contends he is eligible either by reason of autism or ASD, or under the fifth category. Claimant maintains he is eligible under the fifth category either because his condition is closely related to ID, or it requires treatment similar to that for ID, or both.

8. There was no evidence that a medical professional has diagnosed claimant with ASD. Claimant maintains that, nevertheless, he displays enough of the symptoms of ASD to conclude that an ASD diagnosis and a determination in favor of eligibility would be appropriate. Claimant is correct that some symptoms of ASD have been noted by observers. For instance, claimant may be said to show, under the DSM-5 criteria for ASD, category A, as set out in Finding 11A, "abnormal social approach and failure of normal back-and-forth conversation" or "poorly integrated verbal and nonverbal communication." Thus the service agency's November 25, 2018 Social Assessment, described in Finding 19, noted claimant's aggressive behaviors taking the place of more normal communication about what claimant might desire. So also Dr. Bautista noted, as described in Finding 20F, that claimant, instead of communicating verbally, will at times become aggressive. Claimant, however, did not present evidence to explain why claimant's aggression and resultant failure to communicate more normally justify a conclusion different from Dr. Bautista's, of Unspecified Disruptive, Impulse-Control, and Conduct Disorder.

9. Dr. Langenbacher's opinion was credible and persuasive that a child who interacts with others and responds with a smile when another person smiles, as claimant does, does not show signs of ASD. More than one observer, such as the



preschool evaluation team, noted that claimant smiled at others and interacted with them, as described in Finding 13.

10. Claimant maintained that in any event he should be eligible for services under the fifth category. There is evidence that claimant's development is delayed in such important areas as receptive and expressive language skills. That is one reason that he was eligible for Early Start services, as set out in Finding 6. As set out in Finding 7, claimant's lowest level of development was in expressive language, at approximately 12 to 15 months when he was aged 27 months. Other observers noted that claimant's language skills are lagging his peers. This evidence, however, does not establish claimant's eligibility. Claimant's language delays did originate before 18 years of age, one requirement under Welfare and Institutions Code section 4512, subdivision (a). But the evidence did not establish that the delays will continue indefinitely, as the statute also requires for eligibility.

11. In addition, the evidence did not establish that the delays, or any of claimant's conditions, are substantial within the meaning of Welfare and Institutions Code section 4512, subdivision (1)(1). Regarding self-care, for instance, claimant was reported by his mother to need little or no help with several activities of everyday living, such as removing footwear and eating with utensils, as described in Finding 12. There was no evidence that claimant is currently disabled with respect to mobility or self-direction. Because of his age, claimant's capacity for independent living and economic self-sufficiency, two areas of concern in the statute, are not pertinent. It was not shown that claimant has disabilities causing him significant functional limitations in three or more of the areas of major life activity described in the statute.

12. The evidence does not indicate that claimant suffers from disabling conditions closely related to ID or that require treatment similar to that required for

individuals with ID, under Welfare and Institutions Code section 4512, subdivision (a).  
Claimant is not currently eligible for services under the fifth category.

### **ORDER**

Claimant's appeal is denied.

DATE:

THOMAS Y. LUCERO  
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.