

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

**In the Matter of:**

**CLAIMANT**

**vs.**

**WESTSIDE REGIONAL CENTER,**

**Service Agency.**

**OAH No. 2020020529**

**DECISION**

Nana Chin, Administrative Law Judge (ALJ), Office of Administrative Hearings (OAH), State of California, heard this matter telephonically<sup>1</sup> on May 27, 2020.

Claimant was represented at the hearing by his mother.<sup>2</sup>

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<sup>1</sup> The matter was conducted telephonically by the authority of General Orders issued by the Director of OAH on March 19, 2020, as a result of the COVID-19 health crisis.

<sup>2</sup> The names of Claimant and his parents are omitted to protect their privacy.

Candace J. Hein, Fair Hearing Specialist, represented the Westside Regional Center (WRC or Service Agency).

Submission of the matter was deferred until June 17, 2020, for the sole purpose of obtaining additional information from Tenika Jackson, Psy.D., MBA, and to provide Claimant an opportunity to respond to that information.

On June 10, 2020, Claimant submitted a report from Susan Schmidt-Lackner, M.D., at the University of California, Los Angeles (UCLA) Stewart and Lynda Resnick Neuropsychiatric Hospital. The document was marked Exhibit E but was not admitted into evidence as it was outside the scope of the purpose for which the record was left open.

On June 10, 2020, the Service Agency submitted a statement from Dr. Jackson. Claimant's parents (Parents) did not submit a timely response to Dr. Jackson's statement.

The record was closed and the matter submitted for decision on June 17, 2020.

## **ISSUE PRESENTED**

Is Claimant eligible to receive regional center services within the meaning of the Lanterman Developmental Disabilities Services Act, Welfare and Institutions Code section 4500 et seq. (Lanterman Act), due to autism?

## **EVIDENCE**

Documentary: Exhibits 1-7 and A-D.

Testimonial: Kaley Shilakes, Psy.D.; Claimant's mother (Mother) and Claimant's father (Father).

## **CASE SUMMARY**

Claimant failed to present sufficient evidence to show that he is eligible for Lanterman Act services under a diagnosis of autism. However, the evidence established that the assessment conducted by the Service Agency did not consider all the relevant evidence for an accurate eligibility determination. Therefore, a comprehensive assessment is ordered in this decision.

## **FACTUAL FINDINGS**

### **Parties and Jurisdiction**

1. Parents requested services from Service Agency under the Lanterman Act due to concerns Claimant has autism.
2. On January 6, 2020, Service Agency issued a Notice of Proposed Action (NOPA) notifying Parents of its determination that Claimant was not developmentally disabled and therefore was not eligible for services through the Lanterman Act.
3. Mother filed a fair hearing request dated February 6, 2020, and hearing in the matter was set for March 20, 2020.

4. On March 10, 2020, a continuance was requested by Service Agency. Mother did not oppose the continuance and electronically waived the time limit prescribed by law for holding the hearing and for the administrative law judge to issue a decision in the case. On March 16, 2020, the continuance was granted and this hearing ensued.

## **Background**

5. Claimant is a three-year old boy who was born on January 16, 2017. He resides with his parents and his older brother, who is a Service Agency consumer.

6. Since May 2019, Claimant has been receiving services under the California Early Intervention Services Act (Early Start)<sup>3</sup> due to developmental delays in the areas of communication and adaptive skills.

7. Prior to the COVID-19 health crisis, Claimant had been attending a "Bridge Program" in the mornings and preschool in the afternoon. (Exhibit 3, p. 2.)

## **2019 Speech-Language Exit Report**

8. On December 17, 2019, Roxanna Elghanayan, M.S., a licensed speech-language pathologist with Talk This Way, prepared a Speech-Language Exit Report (S-L Exit Report).

A. Ms. Elghanayan provided Claimant with speech and language treatment sessions twice a week at his home from May 21, 2019 until mid-July 2019.

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<sup>3</sup> Government Code section 95000 et seq.

From mid-July 2019 until January 16, 2020, the treatment sessions were provided at Claimant's preschool.

B. Ms. Elghanayan noted Claimant continued to exhibit mild delays in language comprehension and expression. Claimant was "70% intelligible," often presenting "with substitutions and omissions when spontaneously speaking which affect his intelligibility." (Exhibit 4, p. 5.)

C. Claimant also had exhibited moderate delay in play. Ms. Elghanayan noted "[a]t school, [Claimant] often presents with difficulty sharing and taking turns with his peers. He resorts to physical aggression and saying 'stop it' or 'no' repeatedly if he cannot find the words to express his thoughts and/or feelings. . . . [Claimant] is beginning to present with more difficulties with transitions in the school and home setting . . ." (Exhibit 4, p. 4.)

## **2019 Occupational Therapy Evaluation Report**

9. On August 26, 2019, Shiksha Hingorani, a licensed occupational therapist (OTR/L), with Hold My Hands Inc, conducted an assessment and prepared an Occupational Therapy Evaluation Report (OT Report). The assessment consisted of a parent interview, review of records, clinical observations and the administration of the Bayley Scales of Infant and Toddler Development, 3rd edition (BSID III) and the Developmental Assessment for Young Children-2nd Edition (DAYC-2) Subtest-Social Emotional, Adaptive.

A. During the behavioral observation, Claimant greeted the therapist with a smile and established eye contact. Claimant appeared to follow simple one step directions, and was observed using gestures and words intermittently, mostly talking in single words. Claimant was also observed transitioning easily between activities but

was occasionally impulsive, ignoring or refusing to participate. It was also noted that Claimant's "articulation was unclear and it was difficult to understand him at times." (Exhibit 5, p. 5.)

B. On the BSID-III, Claimant exhibited delays in his combined speech and language skills, scoring in the low average range. On the DAYC-2, Claimant exhibited delays in both his adaptive skills and social-emotional development, scoring in the low average range.

## **Psychoeducational Assessment Report**

10. Service Agency referred Claimant to the School District to determine his eligibility for special education services after his third birthday. Payam Beheshti, Psy.D., the school psychologist at the School District, conducted a psychoeducational assessment of Claimant on December 2, 2019.

A. Dr. Beheshti conducted an observation of Claimant in both interview and classroom settings, interviewed Claimant's mother and teacher, reviewed Claimant's records, and administered various tests.

B. During the assessment observation, Dr. Beheshti noted Claimant responded appropriately to questions and was generally cooperative with reinforcers, appropriately looking at adults when addressed. Dr. Beheshti also noted Claimant's "spontaneous verbalizations were frequently not intelligible," and that he engaged in refusal behaviors by either saying "no" or ignoring an adult's request. (Exhibit A, p. 4.) When observed during free play in the classroom, Claimant played near other children without difficulty and occasionally interacted with them verbally. Claimant's teacher recounted that Claimant "frequently grabs toys that he wants and may hit another

child to get access to a desired object” and “has difficulty waiting for what he wants.” (Exhibit A, p. 4.)

C. Dr. Beheshti estimated Claimant’s overall cognitive ability, social-emotional ability and adaptive behaviors/self-help skills to be within average range. Following formal standardized testing, Claimant presented with average receptive and expressive language skills but delayed functional language and phonological skills. Receptively, Claimant had difficulty understanding complex sentences, making inferences, and identifying pronouns and shapes. Expressively, Claimant had difficulty answering what and where questions, naming described objects and answering questions logically. Though Claimant earned average scores on the receptive and expressive language subtests, Claimant exhibited limited functional language skills and presented with low speech intelligibility. Upon completion of the initial assessment, Dr. Beheshti concluded that Claimant appeared to meet eligibility criteria for special education services as “speech/language impaired: functional communication and phonology.” (Exhibit A, p. 18.)

## **2020 Individualized Education Program**

11. Claimant’s initial Individualized Education Program (IEP) meeting was conducted on January 16, 2020. The IEP team consisted of Parents; Ana De Silva, parent advocate; Sean Tran, administrator designee; Dr. Beheshti; Larisa Chudonovskaya, speech pathologist; Tiffany Fu, occupational therapist; Maria Perez, general education teacher; and Norma Vasseghi, special education teacher. The IEP Team agreed Claimant would receive: (1) 180 minutes of specialized academic instruction every weekday; (2) two 30 minutes sessions of language and speech every week; (3) one weekly 30 minute session of occupational therapy; and (4) extended

school year services during which the specialized services would continue to be provided.

## **2020 Psychological Assessment**

12. The WRC's Interdisciplinary Team met and reviewed "the developmental dated 08/26/19"<sup>4</sup> and concluded that Claimant was not eligible for services under the Lanterman Act as he was not developmentally disabled. (Exhibit 2, p. 3.) Parents were provided a NOPA notifying them of Service Agency's determination.

13. At some point after the NOPA had been issued, Service Agency determined Claimant required a comprehensive assessment to determine whether Claimant was eligible for regional center services under the Lantermen Act.

14. Service Agency authorized Tenika Jackson, Psy.D., MBA with Diversity Dynamics Consulting, LLC, an independent contractor for WRC, to conduct a psychological evaluation.

15. Due to the COVID-19 Health Emergency, Dr. Jackson, with the agreement of Parents, conducted Claimant's assessment remotely. According to the report, the

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<sup>4</sup> Though it was not clearly stated, it appears the Interdisciplinary Team reviewed the 2019 OT report discussed in Factual Finding 9.



assessment was conducted over two Zoom sessions of indeterminate length<sup>5</sup> on April 29, 2020, and May 5, 2020.

A. During the first session, Dr. Jackson noted that Mother was present and assisted in the evaluation. According to Dr. Jackson, Claimant “spoke and looked at the computer screen . . . . He was able to play with his toys and attempt to engage the evaluator.” (Exhibit 3, p. 4.) There was no indication Claimant had any difficulty in communicating. Dr. Jackson noted Claimant’s speech was comprehensible, he engaged in reciprocal interaction and that Claimant did not display any repetitive behaviors during the session.

B. Dr. Jackson noted Mother was again present for the second Zoom session. Again, Dr. Jackson noted that Claimant spoke clearly, remained engaged for most of the session and did not display any repetitive behaviors.

16. Dr. Jackson administered the DAYC-2, the Adaptive Behavior Assessment System Third Edition (ABAS-3), the Gilliam Autism Rating Scale-Second Edition (GARS-3), and the Autism Diagnostic Interview -Revised (ADI-R).

A. Dr. Jackson administered the DAYC-2, an individually administered, norm-referenced measure of early childhood development in the areas of cognition, communication, social-emotional development, physical development and adaptive behavior for children from birth through age 5 years and 11 months, to assess Claimant’s cognitive functioning. The DAYC-2 format allows examiners to obtain

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<sup>5</sup> Though Dr. Jackson initially states in her report that the “[t]he assessment was conducted via zoom for 1 hour each session,” she later states that “[t]he appointment took place for 1 hour and 30 mins via zoom.” (Exhibit 3, p. 1 and 4.)

information about a child's abilities through observation, interview and direct assessment. Standard scores between 85 and 115 are considered within normal limits. Claimant's cognitive domain standard score was 82, which represents below average performance.

B. Claimant's adaptive functioning skills were measured through Mother's report utilizing the ABAS-3. Claimant's adaptive skills in the conceptual, social, practical and motor domains were evaluated to yield a General Adaptive Composite (GAC) score of 58, which is in the extremely low range.

C. In order to assess Claimant for Autism Spectrum Disorder (ASD), Dr. Jackson completed the GARS-3 and ADI-R using Mother again as the informant. Claimant's scores on the GARS-3 suggested that Autism is "Very Likely" and his scores on the ADI-R met the diagnostic cutoffs consistent with Autism Spectrum Disorder.

D. There is no indication in the report that Dr. Jackson made any effort to speak to Claimant's teachers at either the Bridge Program he had been attending in the mornings or the preschool he had been attending in the afternoons prior to COVID-19 crisis.

17. Dr. Jackson also reviewed the S-L Exit Report and the OT Report summarized in Factual Findings 8 and 9.

18. Dr. Jackson determined that Claimant did not meet the clinical diagnostic criteria for ASD under the Diagnostic and Statistical Manual of Mental Disorders (5th edition, 2013, American Psychiatric Association) (DSM-5) and provided the following diagnoses: V71.09 (Z03.89) No Diagnosis.

19. In coming to this conclusion, Dr. Jackson discounted the test results from the ABAS-3, GARS-3, and ADI-R and determined Claimant had not presented with any of the characteristics which would be consistent with ASD. To support her conclusion, she noted that during her Zoom observations Claimant had not exhibited: (1) persistent deficits in social communication and social interaction across multiple contexts; and (2) restricted, repetitive patterns of behavior, interests or activities.

A. Dr. Jackson found that Claimant did not exhibit persistent deficits in social communication and social interaction in that during her observation she found Claimant was able to share his interests with others, demonstrating appropriate affect and emotions, exhibited appropriate eye contact, and was able to integrate his verbal and non-verbal communication to express his needs and wants. Based on her observation of Claimant playing independently, Dr. Jackson also determined that Claimant did not have any deficits "in developing, maintaining, and understanding relationships, ranging from difficulties adjusting behavior to suit various social contexts, to difficulties in sharing imaginative play or making friends, to absence of interest in peers.". (Exhibit 3, p. 8.)

B. Dr. Jackson noted that though Mother had reported Claimant would exhibit stereo-typed or repetitive motor movement, she did not observe any such behavior during the Zoom session. Dr. Jackson also found that Claimant did not exhibit any other restricted, repetitive patterns of behavior, interests or activities, in that Parents had not reported any such behavior and she had not observed any other such behaviors.

20. At hearing, Parents were confused by Dr. Jackson's report. Specifically, though the report claimed that the assessment was conducted over two Zoom sessions with Mother and Claimant, Parents denied that this was true. Specifically,

Mother testified that she had not participated in any Zoom sessions with Dr. Jackson. Instead, she had one phone call during which Claimant was not present. The only other "substantial" contact Parents had with Dr. Jackson was a Zoom session Father had with Dr. Jackson. Claimant had been present approximately 10 to 15 minutes of the session as he had not wanted to be in front of the camera.

21. Kaely Shilakes, Psy.D., Intake Manager for Lanterman Services at WRC and staff psychologist, testified regarding Dr. Jackson's report. As Dr. Shilakes did not conduct the assessment, however, she was unable to explain the discrepancy between Parents testimony regarding the assessment and Dr. Jackson's report. The record was therefore left open to provide Service Agency an opportunity to address the discrepancies.

22. Dr. Jackson submitted a letter dated June 10, 2020, which was admitted into evidence as Exhibit 7. In the letter, Dr. Jackson defended the use of Zoom and explained that the "majority of the time was spent with the parents gathering background information and completing necessary assessment forms." (Exhibit 7.) Dr. Jackson asserts that she spent "an appropriate amount of time" with Claimant and his family to arrive at her conclusion and recommended that Claimant be "retested in the office by another evaluator once it is deemed safe to do so." (Exhibit 7.)

## **Parent Testimony**

23. Mother expressed concerns about the termination<sup>6</sup> of the Early Start services currently being provided by Service Agency as Claimant's atypical behaviors have not abated and instead, have been steadily increasing.

24. Mother acknowledged that Claimant had not received a formal diagnosis of ASD and speculated that the School District is unwilling to label Claimant as autistic.

25. No evidence was presented to Service Agency prior to the hearing to show that Claimant had received a diagnosis that he suffers from autism, cerebral palsy, epilepsy, intellectual disability, or a condition similar to intellectual disability or requiring services similar to those required by persons with intellectual disability.

## **LEGAL CONCLUSIONS**

### **Jurisdiction**

1. The Lanterman Act governs this case. (Welf. & Inst., § 4500 et seq.) A state level fair hearing to determine the rights and obligations of the parties, if any, is referred to as an appeal of Service Agency's decision. Claimant properly and timely requested a fair hearing and therefore jurisdiction for this case was established. (Factual Findings 1-4.)

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<sup>6</sup> Children up to three years of age who meet qualifying criteria as defined in the Early Start law are eligible for Early Start services.

## **Burden and Standard of Proof**

2. When an individual seeks to establish eligibility for government benefits or services, the burden of proof is on the individual. (*Lindsay v. San Diego Retirement Bd.* (1964) 231 Cal.App.2d 156, 161.) As no other statute or law specifically applies to the Lanterman Act, the standard of proof in this case is preponderance of the evidence. (See Evid. Code, §§ 115, 500.) Therefore, the burden is on Claimant to demonstrate that Service Agency's decision is incorrect by a preponderance of the evidence.

## **Service Agency's Eligibility Assessment**

3. In order to establish eligibility 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 (ID), cerebral palsy, epilepsy, and autism. This term shall also include disabling conditions found to be closely related to [ID] or to require treatment similar to that required for individuals with an [ID], but shall not include other handicapping conditions that are solely physical in nature."

4. Pursuant to Welfare and Institutions Code section 4512, subdivision (l):

"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:

- (1) Self-care.
- (2) Receptive and expressive language.
- (3) Learning.
- (4) Mobility.
- (5) Self-direction.
- (6) Capacity for independent living.
- (7) Economic self-sufficiency.

5. 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.

6. 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 ASD.

7. The DSM-5, section 299.00, discusses the diagnostic criteria which must be met to provide a specific diagnosis of ASD, 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):

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. [1] . . . [1]

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). [1] . . . [1]

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.

(DSM-5 at pp. 50-51.)

8. Under the Lanterman Act, regional centers are charged with carrying out the state's responsibilities to the developmentally disabled. (Welf. & Inst. Code, § 4620, subd. (a).) It is the Legislature's apparent intent that regional centers diligently attempt to identify and provide services to all persons with developmental disabilities. The Service Agency is required to "conduct case finding activities, including . . . outreach services . . . and identification of persons who may need service." (Welf. & Inst. Code, § 4641.)

9. Welfare and Institutions Code sections 4642 and 4643 set forth the procedure for determining if a person is eligible for regional center services. Section 4642, subdivision (a), provides, in pertinent part: "Any person believed to have a developmental disability . . . shall be eligible for initial intake and assessment services in the regional centers . . . . [¶] Initial intake shall include, but need not be limited to, information and advice about the nature and availability of services provided by the regional center and by other agencies in the community . . . that may be useful to persons with developmental disabilities or their families. Intake shall also include a decision to provide assessment." (See Cal. Code Regs., tit. 17, § 54010, subd. (a).) Neither the Lanterman Act nor the implementing regulations require that a comprehensive assessment be provided to all individuals seeking services.

10. Welfare and Institutions Code section 4643 provides the framework for conducting an assessment, if needed. Specifically an "[a]ssessment may include collection and review of available historical diagnostic data, provision or procurement of necessary tests and evaluations, and summarization of developmental levels and service needs and is conditional upon receipt of the release of information . . . ."

11. Claimant asserts he is eligible for services under the diagnosis of ASD. As set forth in Legal Conclusion 2, Claimant bears the burden of proof to present evidence of his eligibility for services. In order to meet this burden, Claimant is required to present evidence that: (1) he had been diagnosed with autism or ASD; and (2) his condition constitutes a substantial disability for Claimant in that it has resulted in significant functional limitations in three major life activities as set forth in Welfare and Institutions Code section 4512, subdivision (I). Claimant has failed to present such evidence.

12. This, however, does not end the inquiry. Claimant presented sufficient evidence to establish that Claimant's assessment, which Service Agency relied upon in coming to its eligibility determination, was deficient. Claimant was provided with assessment services after Service Agency determined Claimant may have a developmental disability. (Factual Finding 13 and Legal Conclusion 9.) Having determined that an assessment is necessary, Service Agency is required to provide an assessment that is complete, accurate and complies with the Lanterman Act and implementing regulations.

13. As set forth in Factual Finding 17, Dr. Jackson's assessment documents that the autism test measures she administered, the GARS-3 and ADI-R, indicate that autism is "Very Likely" and that Claimant's scores met the diagnostic cutoffs consistent with ASD. These findings were, however, discounted based on a 10-15 minutes observation conducted by Dr. Jackson of Claimant over Zoom.

14. Dr. Jackson's conclusion that Claimant "**does not present** with characteristics of an Autism Spectrum Disorder" was based, in part, on her determination that Claimant had no deficits in developing, maintaining, and understanding relationships. (Exhibit 3, p. 7, emphasis in original.) Dr. Jackson came to

this determination after she observed Claimant playing independently for an unspecified period of time. This determination is at odds with some of the documented observations made by professionals who were able to witness Claimant's interacting with his peers at his preschool over a sustained period of time. (Factual Findings 8C and 10B)

15. In addition, Dr. Jackson notes in her report that Claimant's "speech was comprehensible" during the first Zoom session and that Claimant "spoke clearly" during the second Zoom session. Dr. Jackson's observations of Claimant's communication abilities are in sharp contrast to the observations as documented by others in the OT Report, S-L Exit Report and Psychoeducational Assessment.

16. Pursuant to California Code of Regulations, title 17, section 54001, subdivision (c), when assessing whether an individual has a substantial disability, the Interdisciplinary Group "shall consult the potential client, parents, guardians/conservators, educators, advocates, and other client representatives to the extent that they are willing and available to participate in its deliberations and to the extent that the appropriate consent is obtained." Having discounted Parent account of Claimant's behavior and being unable to conduct an in-person observation, extra efforts should have been made to obtain additional information regarding Claimant's abilities and interactions with others. No evidence, however, was presented to show any attempt was made to contact Claimant's preschool teacher, therapist or other caregivers familiar with Claimant behaviors.

17. The evidence established that Service Agency failed to comply with section 4643, subdivision (a), and California Code of Regulations, title 17, section 54001, subdivisions (b) and (c). Service Agency will be ordered to conduct a reassessment of Claimant which complies with the Lanterman Act and regulations to

determine Claimant's eligibility for services. This decision makes no findings as to the ultimate question of regional center eligibility.

## **ORDER**

Claimant's appeal from Westside Regional Center's determination that he is not eligible for regional services and supports is denied in part and granted in part. Though insufficient evidence was presented to establish Claimant's eligibility for services, the evidence did establish that Westside Regional Center failed to conduct a proper eligibility assessment. Westside Regional Center is ordered to conduct a eligibility reassessment which complies with the Lanterman Act and regulations to determine Claimant's eligibility for services.

DATE:

NANA CHIN

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.