

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

In the Matter of:

CLAIMANT,

vs.

WESTSIDE REGIONAL CENTER, Service Agency.

OAH No. 2020040133

DECISION

Thomas Y. Lucero, Administrative Law Judge, Office of Administrative Hearings, State of California, heard this matter by telephone and videoconference on January 13, 2021. Candace Hein, Fair Hearings Specialist, represented Westside Regional Center, the Service Agency, Mother represented claimant.

Names of family members are omitted to protect privacy. Oral and documentary evidence was received. Consecutive rather than original pagination of the Service Agency's exhibits is used below. At the conclusion of the fair hearing the record was closed and the matter was submitted for decision.

STATEMENT OF THE CASE

The Service Agency evaluated claimant for any one of five developmental disabilities which, if found, may be the starting point for finding a person eligible for services. Claimant is very active and distractible, finding it difficult to settle to tasks and activities. He has been disruptive in preschool, sometimes hitting other children. He may throw and damage toys out of frustration. Claimant's language development is delayed. He has trouble pronouncing words so as to be understood, even at times by his parents. Professional evaluations suggest that there may be more developmental delays and deficits. On the other hand, given claimant's high level of activity and distractibility, it may be that claimant's abilities and aptitudes are underestimated by the extensive testing used in his evaluations. At present claimant has failed to establish that he has a developmental disability that makes him eligible for services.

ISSUES

1. The main issue is whether claimant qualifies for services from the Service Agency based on a substantial developmental disability, one that may be characterized under one of five categories: (i) intellectual disability (ID), (ii) cerebral palsy, (iii) epilepsy, (iv) autism, or (v) disabling conditions closely related to ID or requiring treatment like that for ID.

2. Claimant does not contend he comes under the second or third categories, cerebral palsy or epilepsy. There are sub-issues, however, under the remaining categories, whether claimant is eligible by reason of ID, autism, or the fifth category.

SUMMARY OF DECISION

This matter is governed by the Lanterman Act (the Lanterman Developmental Disabilities Services Act, codified in Welfare and Institutions Code sections 4500 through 4885) and implementing sections in title 17 of the California Code of Regulations (Regulations). Claimant presented evidence of significant developmental deficits and delays, but did not carry his burden of proof. Claimant's current condition does not in any of its aspects demonstrate the sort of substantial disability that qualifies a person for services under the Lanterman Act. As claimant did not prove eligibility, his appeal is denied.

FINDINGS OF FACT

1. By means of a March 28, 2020 Fair Hearing Request, claimant timely appealed the service agency's March 6, 2020 determination that claimant was ineligible for regional center services.

2. Claimant will turn four years old in April 2021. He lives with his parents. His pediatrician referred him to the Service Agency, where he participated in the Early Start program till he became ineligible on turning three years old.

October 2019 Physical Therapy Evaluation

3. "[B]ecause of concerns with [claimant's] overall development," as set out on page 33, the Service Agency engaged pediatric Physical Therapist (PT) Debby Bohn, BS, MPT, who prepared an October 23, 2019 Physical Therapy Developmental Evaluation, Exhibit 6. Claimant was two and a half years, or 30 months, old.

A. PT Bohn's noted that claimant had prenatal drug exposure. Under History, she noted that claimant had spent 14 days in the NICU (newborn intensive care unit) before discharge to his parents.

B. Previous to her evaluation, as PT Bohn also noted, claimant received physical and occupational therapy (PT and OT) in the Service Agency's Early Start program. Claimant continued at the time of the evaluation to receive OT from a privately engaged therapist.

C. The Service Agency found claimant ineligible for Early Start speech therapy. Parents reported that though claimant linked words, he sometimes spoke words they could not understand and his speech was not at the level of his peers. Claimant's short attention span also concerned parents, as did his being very active in preschool classes, more active than any other child.

D. PT Bohn's clinical observations: Claimant engaged with PT Bohn. He made eye contact and smiled when she spoke, but he had "a limited attention for the testing items." He was disorganized, especially during the parent interviews, but he transitioned from each testing item, and he could focus for up to five minutes before moving away from the testing area. In frustration he several times hit himself in the head and sometimes threw testing items across the room.

E. The detailed results from PT Bohn's administration of the Bayley Scale of Infant Development III (BSID III) are set out on page 34. On two subtests, claimant's scores were average, in the 50th percentile on the cognitive and the 34th percentile on the language subtest. His gross motor skills were borderline, in the 8th percentile, the age equivalent of 20 months.

F. PT Bohn also provided on page 34 the results of the Developmental Assessment of Young Children (DAYC): claimant's adaptive skills are rated below average, the age equivalent of 21 months, His social emotional skills were average, the age equivalent of 29 months.

G. PT Bohn's recommendation, on page 37, was continued OT.

December 2019 Occupational Therapy Evaluation

4. Following an initial evaluation on December 4, 2019, pediatric occupation therapist, Rachel Albo, MOT, OTR/L, of OT 4 Kids, the Therapeutic Learning Center, Santa Monica, California, prepared an Occupational Therapy Evaluation, Exhibit B. Claimant was two years and eight months, or 32 months, old, at the time of the evaluation.

A. Therapist Albo stated a diagnosis or conclusion, namely, G96.9 Disorder of Central Nervous System, Unspecified. (G96.9 is a code used in the International Classification of Diseases, 10th revision (ICD-10), a standard reference work.) There is a Physician Certification which, by signing, a physician could concur with proposed therapy. The certification has a signature line for claimant's pediatrician, Vania Nguyen, M.D., but there is no signature. The evidence did not establish whether Dr. Nguyen saw or considered therapist Albo's evaluation.

B. Several reasons for the referral to therapist Albo are stated: "[Claimant] was referred for . . . [OT] by Westside Regional Center secondary to adopted parent's [s/c] concerns with low frustration tolerance, social/communication skills, hitting other children, gross motor delay and difficulty on task which impact his ability to successfully engage in play and self-care activities at home and in preschool environment."

C. Under Background and Medical History, therapist Albo noted that claimant had various difficulties, such as in clothing himself. He was not toilet trained. He also had strengths, including: "curiosity, consistent sleep routine, separates from parents well, and enjoys entering into activities." She noted some of claimant's interests, such as going to a playground. Parents told therapist Albo that claimant was no longer in preschool because of aggressive behaviors and "decreased overall emotional regulation and organization of behavior." He was reported to have difficulty concentrating. There are unusual behaviors: "[Claimant] . . . often demands time with running water in the sink, picks at mom's skin and his own skin He is described as getting overly excited in groups of children, presenting with frequent tantrums, throwing toys out of frustration and cannot settle in high-stimulus environments (restaurants, parties, preschool, etc.)."

D. Therapist Albo administered two standardized assessments: the Infant/Toddler Sensory Profile Caregiver Questionnaire (Questionnaire) and the Peabody Test of Developmental Motor Scales, second edition (PDMS-2).

i. The Questionnaire was completed by parents. Claimant's performance in all 10 test categories was typical, except one in which he was found to be of low registration. That is, he was not as "in touch with his body" as peers. According to therapist Albo, children with low registration like claimant "need more sensory input in order to help them to be alert." There is no explanation how this finding may be reconciled with that regarding claimant's difficulty in "high-stimulus environments."

ii. Results of the PDMS-2 in two categories and their subcategories were:

(a) In gross motor skills, claimant was: (1) below average in the ability to maintain control of his body and equilibrium, in the 9th percentile; (2) very poor in locomotion, in the 1st percentile; (3) poor in object manipulation, in the 5th percentile. These results yielded a gross motor quotient (GMQ) in the 1st percentile with a GMQ interpretation of "very poor."

(b) In fine motor skills, claimant was: (1) average in grasping, in the 25th percentile; and (2) poor in visual-motor integration, in the 5th percentile. These results yielded a fine motor quotient (FMQ) in the 8th percentile with an FMQ interpretation of "poor."

E. From her clinical observations, therapist Albo noted "possible receptive language deficits." She recommended a speech-language pathology evaluation. She concluded claimant "demonstrated decreased impulse control and decreased overall regulation which impacted his participation in adult-directed activities."

F. In her summary, therapist Albo wrote: "Through this comprehensive evaluation, it is evident that [claimant] is presenting with difficulties with emotional regulation, transitions, organization of behavior, participating in adult-directed activities, gross motor coordination and tolerating novel sensory experiences which impact his ability to participate in age-appropriate activities and will further impact his success in the academic environment in coming years." Therapist Albo recommended, among other things, "one-on-one sensory clinic-based occupational therapy services at a frequency of 2 times per week.

January 2020 Diagnoses by Pediatrician

5. Anshu Batra, M.D., F.A.A.P., a Board certified developmental behavioral pediatrician, examined claimant in January 2020, as shown in a paid invoice, Exhibit C, and handwritten notes, Exhibit D. The invoice states that Dr. Batra diagnosed claimant with, in order, under the following ICD-10 codes: (i) P94.2 Hypotonia; (ii) R27.9 Neuromuscular Incoordination; (iii) F82: Coordination Disorder; and (iv) F80.2 Receptive/Expressive Language Disorder. There is in the evidence no discussion by Dr. Batra of the diagnoses.

March 2020 Evaluation by LAUSD

6. The Service Agency referred claimant to the Los Angeles Unified School District (LAUSD or the District), in anticipation of his turning three and becoming no longer eligible for the Early Start program. Speech language pathologist (SLP) Lauren DiMascio Hillary, MS, CCC/SLP, prepared the District's March 30, 2020 report, Exhibit E, "to determine if [claimant] may benefit from support in the area of language and speech."

A. Charna Turner, RN, had completed an LAUSD Health Assessment, which SLP Hillary reviewed as part of her assessment and was aware of claimant's pre-natal exposure to opioids. Claimant's health at the time was assessed as stable and unremarkable. Shortly before SLP Hillary's report, claimant had also passed Spot Vision Screening and audio screening with the District's Audiologic Resource Unit.

B. As previously noted above, the Service Agency had determined that claimant not qualified for speech and language services. Since January 2020, Christine Schult, MA, CCC/SLP, Scheflen Speech Language Pathology, Inc., provided such services, approximately one hour twice weekly, paid by private insurance. The

therapist there reported his steady progress, which was also helping with his impulsivity. Claimant was also receiving OT three times per week. He was no longer in preschool, however. He had attended preschool twice per week, two hours per day, from September to November 2019.

C. Parents reported, as set out on page 2 of the report, that claimant has "random excited outbursts and will all of a sudden hit someone or start throwing toys [His] outbursts do not appear to be because [claimant] is upset but more that he needs to release his energy. [Mother] noted that they are short-lived and that he can be redirected easily." Parents also told SLP Hillary that claimant "appears to understand everything said to him but is difficult to understand. They noted he seems to have an adequate expressive vocabulary for his age and typically uses 3-4 word utterances to communicate. His mother reported as set out on page 2 that she can understand him approximately 85% of the time but unfamiliar people may only understand him 50% of the time with context and 30 to 40% of the time without context. She indicated he can become frustrated when not understand [*s/c*] but not to a significant degree." On page 5, the examiner, after observations and tests, agreed with mother's estimation of claimant's intelligibility.

D. During the classroom observation described on page 2 of the report, "[g]iven support, [claimant] was able to transition to the assessment room and sat for approximately 15-20 minutes to participate in formal assessment tasks before getting up." Claimant did throw toys during the assessment for no reason apparent to SLP Hillary.

E. SLP Hillary administered the Preschool Language Scale – Fifth Edition (PLS-5) to assess claimant's language skills. Claimant's total language score put him in the 45th percentile. SLP Hillary notes on page 9 of the report that because it

was hard at times for claimant to follow directions and complete tasks, “scores and information should be regarded with caution as they may be an underrepresentation of his true language abilities.” Dr. Gottlieb expressed similar caution, as set out below.

F. According to conclusions on page 10, claimant did not meet eligibility criteria for Speech and Language Impairment under regulations implementing the Education Code, specifically Regulations 3030 and 3031. Under these regulations, however, claimant “may need special education and related services support” because of disorders in articulation and language.

April 2020 Service Agency Intake Evaluation

7. Gabriela Yanez, M.A., Intake Service Coordinator, prepared the service agency’s Psychological Assessment, Exhibit 3, in the same month when claimant turned three years old. The assessment is based on an April 17, 2020 telephone interview that included parents.

A. Ms. Yanez noted on page 10 that mother suspected claimant might have ASD, but no ASD diagnosis had been made. Parents said that claimant never sat still, so that he might also have attention deficit hyperactivity disorder (ADHD). They described rigidity, increased inability to self-regulate, difficulty using language, and delayed motor skills. Parents also reported that claimant’s preschool teacher agreed that claimant had such developmental deficits and delays.

B. Ms. Yanez reviewed claimant’s medical records, including those showing his biological mother used antidepressant and antianxiety drugs during the pregnancy. Claimant had withdrawal symptoms and was kept 14 days in the NICU while he was weaned with morphine.

C. Mother described claimant as affectionate. There was also discussion of claimant's not yet being toilet trained and other matters relating to his everyday life.

D. Ms. Yanez recommended that the service agency obtain claimant's medical and school records as appropriate and coordinate a psychological evaluation.

May 2020 Psychological Eligibility Evaluation

8. Naz Bagherzadeh, Psy.D., prepared a Psychological Eligibility Evaluation, Exhibit 4, for the service agency. Based on observations on May 7 and 20, 2020, Dr. Bagherzadeh evaluated claimant for ASD or any of the other four types of disability that might make a claimant eligible for services under the Lanterman Act.

A. Dr. Bagherzadeh reviewed results of evaluations conducted by PT Bohn, the BSID III and DAYC, as well as pertinent background noted in other evaluations. With mother's help, Dr. Bagherzadeh was also able to observe claimant by video as he was speaking and playing with toys.

B. Dr. Bagherzadeh administered the DAYC-II, results from which she linked to mother's detailed observations of claimant. Claimant's receptive communication domain score fell in the average range, with an age equivalent of 35 months, his expressive communication domain score was average, his age equivalent 34 months, his score in the adaptive behavior domain was below average, his age equivalent 29 months, while in the cognitive domain his score was average, his age equivalent 40 months.

C. At Dr. Bagherzadeh's request, mother completed the Vineland Adaptive Behavior Scales, third edition – Comprehensive Parent/Caregiver Form

(Vineland-3), which was used to evaluate adaptive functioning in four domains: (i) communication, (ii) daily living skills, (iii) socialization, and (iv) motor skills. Under the communication domain, on page 20, claimant was noted to use the word "because" in phrases and sentences but never or almost never paid attention to a story for at least 15 minutes. Based on the Vineland-3, Dr. Bagherzadeh wrote on page 19 that claimant "received an Adaptive Behavior Composite (ABC) that placed his overall adaptive functioning in the Moderately Low range."

D. To test for ASD, Dr. Bagherzadeh used the Childhood Autism Rating Scale, second edition, standard clinical tool (CARS2-ST). The CARS2-ST rates 15 behaviors associated with ASD from normal to severely abnormal. Claimant's scores placed him, as Dr. Bagherzadeh wrote on page 21, in "the *Minimal-to-No Symptoms of Autism Spectrum Disorder* severity group." His CARS2-ST profile included some mildly abnormal scores: under emotional response, claimant had low frustration tolerance, and under activity level, he presented as considerably hyperactive.

E. Dr. Bagherzadeh reviewed criteria for ASD in the DSM-5, the Diagnostic and Statistical Manual of Mental Disorders, fifth edition, published in 2013 by the American Psychiatric Association (APA). and found claimant did not meet them. She found no clinically significant: (1) persistent deficits in social communication and social interaction across multiple contexts, or (2) restricted, repetitive patterns of behavior, interests, or activities. In addition: (3) symptoms were not present in the early developmental period, (4) symptoms were not the cause of clinically significant impairment in social, occupational, or other important areas of current functioning, and (5) any symptoms were not better explained by ID. Dr. Bagherzadeh's diagnosis, page 23, was:

315.39 Speech Sound Disorder

Rule out: Attention Deficit Hyperactivity Disorder

Dr. Bagherzadeh made several recommendations, including speech therapy and applied behavior analysis (ABA) or OT.

September 2020 Psychiatric Evaluation

9. Alessia de Paola Gottlieb, M.D., Diplomate, American Board of Psychiatry and Neurology, with a practice in pediatric developmental psychiatry and child and adolescent psychiatry, administered cognitive and developmental testing on September 22, 2020, when claimant was three years and five months old, or 41 months. Her Initial Neurodevelopmental Evaluation is Exhibit F.

A. Dr. Gottlieb listed areas of concern, including: underdeveloped speech and motor skills and difficulties with sensory processing, self-regulating, attending to non-preferred tasks, and following directions.

B. In March 2020, as Dr. Gottlieb stated, claimant was provided speech therapy following an individualized education plan (IEP) meeting.

C. Dr. Gottlieb noted on page 2 that claimant “was prenatally exposed to opioids and prescription antidepressant and antianxiety medication. . . . [I]n the neonatal intensive care unit for two weeks . . . he received a detoxification program using morphine to wean from opioids and was then discharged home.”

D. Parents told Dr. Gottlieb, as noted on page 2, that claimant had “met milestones as expected with a possible slight delay. Dr. Gottlieb observed that

claimant “displayed typical eye contact. Among other things, he “shared in enjoyment of interchange, and showed a full range of facial expressions.”

E. Under Sensory Processing on page 3, Dr. Gottlieb found: Claimant was sensitive to noises. He struggled in tolerating transitions and managing emotions. With a high activity level, he was highly distractible, seemed constantly overstimulated, and had difficulty settling on an activity for a productive period. On page 4 Dr. Gottlieb wrote with emphasis that claimant’s test scores “**are likely an underestimation** of his abilities as compared to his age-matched peers due to his difficulty with testing tasks, which impacted his capacity to engage fully with all testing items.” (Emphasis in original.)

F. As PT Bohn had done, Dr. Gottlieb administered the BSID III. Claimant’s composite score summary is set out on page 6.

- i. Claimant’s cognitive score was average, in the 63rd percentile;
- ii. He was average in language, in the 27th percentile;
- iii. Claimant’s motor skills were borderline, in the 8th percentile;
- iv. His Social-Emotional score was likewise borderline, in the 2nd percentile; and
- v. Claimant’s general adaptive score was low average, in the 12th percentile.

G. Dr. Gottlieb administered the Autism Diagnostic Observation Schedule-II, Module 2 (ADOS-II-2), which she described as "a semi-structured, standardized assessment of communication, social interaction, and play to provide diagnostic information for Autism Spectrum Disorders." The ADOS-II-2 indicated that claimant does not have ASD. As Dr. Gottlieb concluded on page 7, "[Claimant] does not display delays in development of communication, reciprocal social interactions, and does not display restricted and repetitive behaviors He scores **below the threshold** for an [ASD]." (Emphasis in original.)

H. Dr. Gottlieb listed several of claimant's strengths, including cognition or ability to learn and receptive language. There were, however, a greater number of areas listed on pages 8 and 9 in which claimant "shows vulnerability," including expressive language, motor skills, and executive functions like attention to disfavored activities and adaptability.

I. Dr. Gottlieb recommended OT, PT, and speech and language therapy. Noting that claimant's deficit in executive functioning made preschool difficult for him, Dr. Gottlieb states on page 9 that claimant "is best suited in a regular education classroom where he would have full opportunity to learn and grow from neurotypical peer modeling." She adds on page 10 that claimant should receive services at school according to an IEP.

Clinical Psychologist's Testimony

10. Kaely Shilakes, Ph.D., is a licensed clinical psychologist. She is the Service Agency's Intake Manager for those three years old or older and for the past two years has been a staff psychologist. She was previously a contractor for the Service Agency, assessing persons for intake. Dr. Shilakes is familiar with the Lanterman Act and

explained the characteristics of developmental disabilities that make one eligible for services. It was evident from the testimony of Dr. Shilakes at the fair hearing that she had considered in detail the exhibits presented by both parties. Based on facts, observations, and opinions in evidence, and her own expertise, Dr. Shilakes concluded that claimant was not eligible for services from the Service Agency.

Parents' Notes

11. In general, parents' notes, Exhibit A, describe observations and circumstances similar to those in other reports and assessments, including those of PT Bohn, therapist Albo, and Dr. Gottlieb. They note "low language skills . . . [and] overstimulation/low attention span" They describe "challenges in motor development." They describe how claimant may find it hard to sit still, yet, among other bright spots, he enjoys that stories are read to him and has a "love of books."

PRINCIPLES OF LAW

1. Claimant bears the burden of proof as the person seeking to establish eligibility for government benefits or services. (*Lindsay v. San Diego Retirement Bd.* (1964) 231 Cal.App.2d 156, 161.) Under Evidence Code sections 115 and 500, the standard of proof is proof by a preponderance of the evidence.

2. Under Welfare and Institutions Code section 4512, subdivision (a):

A. To be eligible for services, a person must have a certain type of developmental disability, one that "can be expected to continue, indefinitely, and constitutes a substantial disability for that individual. . . ."

B. The statute then describes an initial four categories of developmental disability: "this term shall include intellectual disability, cerebral palsy, epilepsy, and autism.

C. The fifth and last category of developmental disability under the statute is "disabling conditions found to be closely related to intellectual disability or to require treatment similar to that required for individuals with an intellectual disability, but shall not include other handicapping conditions that are solely physical in nature.

3. Welfare and Institutions Code section 4512, subdivision (1), states in part:

(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. Though the Lanterman Act uses the term autism, the term is not entirely current. As analysis of this particular disability has evolved, so too has its name. Psychiatrists and psychologists consider the DSM-5 authoritative. The DSM-5 evaluates the disability called autism in the statute as a range or spectrum of disabling characteristics, calling it therefore Autism Spectrum Disorder (ASD). Autism and ASD are used interchangeably in this decision.

5. The Lanterman Act is more up to date in naming ID, intellectual disability. ID was formerly categorized as mental retardation, and Regulation 54000 retains that name. Thus subdivision (a) of Regulation 54000 states: "'Developmental Disability' means a disability that is attributable to mental retardation" Subdivision (a) of the regulation proceeds to the other four categories. Subdivision (b) reiterates that disability must originate before 18 years of age and constitute a "substantial disability." The Regulation continues:

(c) Developmental Disability shall not include handicapping conditions that are:

(1) Solely psychiatric disorders where there is impaired intellectual or social functioning which originated as a result of the psychiatric disorder or treatment given for such a disorder. Such psychiatric disorders include psycho-social deprivation and/or psychosis, severe neurosis or personality disorders even where social and intellectual functioning have become seriously impaired as an integral manifestation of the disorder.

(2) Solely learning disabilities. A learning disability is a condition which manifests as a significant discrepancy between estimated cognitive potential and actual level of educational performance and which is not a result of generalized mental retardation, educational or psychosocial deprivation, psychiatric disorder, or sensory loss.

(3) Solely physical in nature. These conditions include congenital anomalies or conditions acquired through disease, accident, or faulty development which are not associated with a neurological impairment that results in a need for treatment similar to that required for mental retardation.

ANALYSIS

1. As a result of some symptoms of developmental delay, claimant has been thoroughly and repeatedly tested, especially for ASD.

2. There was no contention and no evidence that claimant has epilepsy or cerebral palsy. He is ineligible for services under the Lanterman Act under these two categories of disability.

3. More than one psychologist has examined claimant. They used a variety of tests for ASD, a third category of disability under the Lanterman Act. The test results do not suggest ASD, and no psychologist has found that claimant has ASD. Claimant's psychiatrist, Dr. Gottlieb, tested claimant for ASD using the ADOS-2. She did not diagnose ASD. Dr. Gottlieb's report, Finding of Fact 9E, like that of LAUSD personnel,

Finding of Fact 6E, suggests that claimant's deficits and delays, especially as related to ASD, are overestimated, his strengths underestimated.

4. Claimant did not prove that he is entitled to services under the Lanterman Act based on autism or ASD.

5. For a fourth disability category in the Lanterman Act, ID, claimant has been less intensively examined. The evidence indicates this is because claimant has few symptoms of such a disability. There has been no IQ testing per se. But claimant's cognitive functioning has received attention and a good deal of testing. There is no evidence to establish that claimant's intellectual functioning, his reasoning, problem solving, planning, abstract thinking, judgment, academic learning, or learning from experience, are so delayed that he should be diagnosed with ID.

6. There is no proof that claimant is entitled to services under the Lanterman Act based on ID.

7. Claimant is not entitled to services under the Lanterman Act's fifth category. Claimant may need speech therapy, OT, and PT. But the evidence does not establish that these or other therapies are needed for disabling conditions closely related to ID or to require treatment similar to that required for those with ID.

8. Claimant did not carry the burden of proof to show that he is entitled to services for a substantial disability within the meaning of Welfare and Institutions Code section 4512 and Regulation 54000.

CONCLUSIONS OF LAW

1. The evidence did not support claimant's contention on the main issue, that he qualifies for services from the Service Agency based on a substantial developmental disability, one that may be characterized under one of five categories: (i) intellectual disability (ID), (ii) cerebral palsy, (iii) epilepsy, (iv) autism, or (v) disabling conditions closely related to ID or requiring treatment like that for ID.

2. All sub-issues are resolved under the main issue. Claimant is ineligible for services under the Lanterman Act as the evidence does not support a finding he has ID, autism, or conditions under the Lanterman Act's 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.