

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

In the Matter of:

CLAIMANT,

VS.

WESTSIDE REGIONAL CENTER,

Service Agency.

OAH No. 2020060726

DECISION

Laurie Pearlman, Administrative Law Judge, Office of Administrative Hearings (OAH), State of California, heard this matter on April 14, 2021, by videoconference.

Claimant was represented by his mother. The names of Claimant and his family members are omitted to protect their privacy.

Candace J. Hein, Fair Hearings Specialist, represented Westside Regional Center (WRC).

Oral and documentary evidence was received. The record was left open until April 30, 2021, to allow claimant to file an additional document (Ex. E) and a closing

brief (Ex. F) and to allow WRC to file a closing brief (Ex. 11.) These exhibits were timely filed and marked for identification. Exhibit E was admitted into evidence.

The record was closed and the matter was submitted for decision on April 30, 2021.

ISSUE

Whether Claimant is eligible to receive services and supports from Service Agency under the Lanterman Developmental Disabilities Services Act (Lanterman Act) under the fifth category of eligibility as a person suffering from a condition similar to intellectual disability or requiring treatment similar to that required by someone with intellectual disability (Welfare and Institutions Code (Code) section 4512, subdivision (a).)

EVIDENCE RELIED UPON

Documents: WRC exhibits 1 through 10; Claimant's exhibits A through E.
Testimony: Kaely Shilakes, Psy.D., WRC Intake Manager/Licensed Staff Psychologist; Claimant's mother.

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FACTUAL FINDINGS

Jurisdictional Matters

1. WRC determines eligibility and provides funding for services to persons with developmental disabilities under the Lanterman Developmental Disabilities Services Act (Lanterman Act). (Welf. & Inst. Code, § 4500 et seq.)
2. Claimant's mother requested that WRC evaluate Claimant for eligibility for services under the Lanterman Act. Claimant has a diagnosis of Takayasu's Arteritis, a rare chronic physical condition which causes inflammation in the walls of the aorta requiring cardiac surgeries. Claimant has also been diagnosed with rheumatoid arthritis. His medical diagnoses have caused learning difficulties and mental challenges, including trouble focusing and understanding multistep directions. Claimant's daily living skills are impacted as a result of his physical difficulties.
3. WRC assessed Claimant and determined he was ineligible for services because he does not have a developmental disability, as defined in the Lanterman Act. (See Welf. & Inst. Code, § 4512, subd. (a).) WRC sent a Notice of Proposed Action dated June 1, 2020, stating he is not eligible for services.
4. On June 22, 2020, WRC received Claimant's timely Fair Hearing Request to appeal WRC's denial of eligibility. Claimant's mother asserted that his "heart disability (Takayasu Arteritis) and rheumatoid arthritis has impacted his learning, physical abilities and daily life skills, which is an ongoing problem." (Ex. 2.) This hearing ensued.

Claimant's Evidence

5. Mother testified credibly at the hearing. Claimant is a 15-year-old boy who resides with his parents. He is an only child. Claimant was diagnosed with Takayasu Arteritis when he was 5 years old. He has undergone heart surgery for valve replacement and has been hospitalized several times for this condition. Claimant also has rheumatoid arthritis which causes knee and joint pain.

6A. Claimant attended the eighth grade at New Covenant Academy in Los Angeles, a private school. He attended ninth grade at City Honors High School, a charter school through the Inglewood Unified School District. Claimant is not in special education classes. He attends regular classes with Resource Support and has a 504 plan to provide him with accommodations for his medical needs.

6B. Claimant's English teacher at New Covenant Academy described Claimant as a student who is engaged in class and demonstrates good insight and critical thinking, with well-developed expressive language. Claimant struggles with a lack of taking initiative, losing focus, poor attention, being disorganized, working at a slow pace, losing his schoolwork, not turning in assignments, failing to meet deadlines, and not contributing equally or completing tasks when working in groups.

7A. Claimant's mother is concerned that Claimant's challenges will inhibit his ability to be successful in school. She noted that Claimant has difficulties with focus and continually needs to be reminded to begin and complete tasks. Claimant engages in psychotherapy once every other month to address his feelings about his medical condition and being overweight.

7B. Mother initially sought eligibility for regional center services for Claimant on the basis of intellectual disability (ID). She subsequently asked WRC to consider

eligibility based upon Autism Spectrum Disorder (ASD). At hearing, mother stated for the first time that she is seeking a finding that Claimant is eligible for services solely under the fifth category of eligibility as a person suffering from a condition similar to ID or requiring treatment similar to that required by someone with ID (Fifth Category). Mother is no longer seeking a determination that Claimant is eligible for regional center services on the basis of ID or ASD.

Psycho-Social Assessment

8. On March 26, 2020, Maritza Cortes, WRC Intake Counselor, performed a psycho-social assessment of Claimant, focusing on suspected intellectual disability (ID). She conducted a telephonic interview with Claimant and his parents. Claimant was cooperative and polite. His parents provided pertinent information about Claimant's background and current functioning. They noted that Claimant was born at term and was somewhat delayed in attaining his developmental milestones. His parents reported that Claimant has deficits in all developmental areas. Ms. Cortes obtained and reviewed additional information from Claimant's school and clinical records.

9. Ms. Cortes recommended a psychological evaluation of Claimant be carried out to assess Claimant's adaptive and cognitive functioning and determine whether he has ID. Following the completion of that evaluation, eligibility would be evaluated by WRC's interdisciplinary team.

Psychological Evaluation by Dr. Cook

10. On April 15, 17, and May 13, 2020, Diedre Cook, Psy.D., performed a psychological evaluation of Claimant at the request of WRC. She noted that Claimant had initially been referred to WRC by his physician due to concerns that medical difficulties are affecting his learning.

11. Dr. Cook conducted a clinical interview and administered the Wechsler Intelligence Scale for Children, Fifth Edition (WISC-V); the Vineland Adaptive Behavior Scales, Third Edition (VABS-3); and the Wide Range Achievement Test, Fifth Edition (WRAT-5).

12. The WISC-V is a norm referenced, standardized, instrument designed to measure global intellectual functioning. The WISC-V provides a Full Scale IQ (FSIQ) score, which estimates global cognitive abilities at the time of testing. The FSIQ score is computed based on overall performance on seven subtests which are organized and described within five domains (indices) of cognitive functioning including Verbal Comprehension (VCI), Visual Spatial (VSI), Fluid Reasoning (FRI), Working Memory (WMI), and Processing Speed (PSI).

13. Overall, Claimant evidenced cognitive abilities in the average range. Claimant obtained a FSIQ score which indicated global cognitive abilities in the average range. His VCI, FRI, and WMI were in the average range and his PSI was in the low average range. The VSI was not assessed because a required component could not be administered via Zoom.

14. The WRAT-5 is a widely used, norm referenced test comprised of four subtests designed to assess the examinee's skills in Math Computation, Spelling, Word Reading, and Sentence Comprehension. Overall, Claimant's academic skills ranged from average to high average.

15A. The VABS-3 is a norm referenced instrument designed to assess adaptive abilities in three major domains of functioning - Communication, Daily Living, and Socialization. The VABS-3 is administered by interviewing an informant familiar with the examinee's adaptive skills, in this case Claimant's mother. The examinee's actual

adaptive skills may be higher or lower dependent upon factors such as variability between the examinee's actual abilities and the informant's perception of those abilities or willingness of the examinee to perform the behavior being rated. Claimant's mother's responses resulted in an Adaptive Behavior Composite (ABC) score which indicated moderately low adaptive functioning.

15B. The Communication domain measures the examinee's ability to read, listen, comprehend information, and use oral and written communication. Claimant obtained a Communication domain score which indicated functioning in the moderately low range.

15C. The Daily Living Skills domain measures the examinee's ability to perform tasks relevant to everyday living. Claimant obtained a Daily Living Skills domain score which indicated functioning in the average range. Daily Living Skills include self-sufficiency related to areas such as eating, dressing, hygiene; household tasks such as food preparation and chores; and functioning outside the home including safety, travel, use of money, and knowing one's rights and responsibilities.

15D. The Socialization domain measures behaviors relevant to social interaction. Claimant's Socialization Domain score indicated functioning in the average range. Within the Socialization Domain are subdomains that include Interpersonal Relationships (friendships; social appropriateness; conversation), Play and Leisure (engaging in play and fun), and Coping Skills (behavioral and emotional control).

16. According to the American Psychological Association's Diagnostic and Statistical Manual of Mental Disorders, Fifth Edition (DSM-5), an ID diagnosis requires deficits in both cognitive and adaptive functioning. The DSM-5 is the standard classification of mental disorders used by mental health professionals in the United

States. Claimant demonstrated average cognitive functioning and moderately low adaptive functioning. Thus, he did not meet diagnostic criteria for ID.

17. Dr. Cook observed that Claimant demonstrated attentional difficulties during the video-based appointment. He demonstrated average cognitive abilities, but his processing speed score was low average. The processing speed domain features subtests that can be influenced by the examinee's capacity to consistently attend to the tasks at hand. Claimant's history, presentation, and performance in the current evaluation suggested the presence of attentional difficulties. Dr. Cook recommended an evaluation to rule out Attention Deficit Hyperactivity Disorder (ADHD) with inattentive presentation. Dr. Cook also suggested that Claimant may benefit from occupational therapy to promote the development of adaptive skills. She also recommended that Claimant continue with psychotherapy.

Interdisciplinary Team Determination

18. On May 20, 2020, the interdisciplinary team met to determine Claimant's eligibility to receive regional center services. Kaely Shilakes, Psy.D., a WRC staff psychologist who testified at the hearing, was on the interdisciplinary team and participated in the eligibility determination. Other participants on the team included a medical doctor, a service coordinator, an autism specialist, and two psychological consultants. Claimant was determined to be ineligible for regional center services by unanimous agreement.

Psychological Evaluation by Dr. Meza

19A. Following the interdisciplinary team meeting, Claimant's counselor at City Honors International Preparatory School in Inglewood, California, wrote to WRC in September 2020, stating that Claimant's mother mentioned during a meeting with the

school that his “prior teachers” had observed Claimant exhibiting “behaviors associated with Autism or somewhere on the spectrum.” (Ex. A.) The counselor asked that WRC let the school know if they have any further recommendations after Claimant has been evaluated.

19B. On September 21, 2020, a psychological assessment of Claimant was conducted by George Jesus Meza, Ph.D, LCSW. Dr. Meza is a licensed psychologist. The goal was to assess whether Claimant has Autism Spectrum Disorder (ASD). Dr. Meza also considered whether a diagnosis of ID was indicated. Dr. Meza utilized the diagnostic criteria for ASD and ID, as set forth in the DSM-5.

19C. Based on Dr. Meza’s in-person assessment, Claimant’s diagnostic test results, a review of records, and Claimant’s current level of functioning, Dr. Meza determined that neither a diagnosis of ASD nor a diagnosis of ID is supported for Claimant.

20. Dr. Meza administered the Wechsler Abbreviated Scale of Intelligence - 2nd Edition (WASI-II); WRAT-5; Adaptive Behavior Assessment Scale-3rd Edition (ABAS-3); Autism Diagnostic Observation Schedule-2 (ADOS-2). He also reviewed records, conducted a clinical interview, and carried out a community observation of Claimant.

21. Claimant was cooperative and made consistent eye contact. He was friendly and socially affable. His activity level was appropriate. He was compliant and followed instructions as provided by Dr. Meza. His speech was clear. Claimant communicated using four-to-five-word phrases. His grammar and syntax were appropriate. He used nonverbal gestures. Receptively, Claimant understood phrases and multi-step instructions. Claimant required minimal prompting and encouragement

to attend. He could direct communication attempts to others. Within the testing environment, he exhibited no difficulty with understanding assessment instructions. His attention span was within the appropriate limits, and he made good eye contact as instructions and redirection were provided. Claimant used his verbal and nonverbal communication for a variety of pragmatic functions during the assessment process.

22. On September 28, 2020, Claimant and Dr. Meza went for a walk in the community and to a local cafe to order a meal. Dr. Meza observed Claimant as he transitioned from the office to the elevator, while he rode the elevator, while he went for a walk, as he ordered a meal at the cafe, as he waited for the meal, and at departure. Throughout the observation, Claimant did not present with any of the symptoms associated with ASD. His manner of speaking was typical, he exhibited social reciprocity, made good eye contact, smiled, and easily transitioned from one activity to the next.

23. Dr. Meza administered the Wechsler Abbreviated Scale Intelligence, Second Edition (WASI-II) to Claimant, an abbreviated general intelligence test designed to assess specific and overall cognitive capabilities. It is composed of a battery of four subtests: Block Design, Vocabulary, Matrix Reasoning, and Similarities. The WASI-II provides estimates of Verbal and Perceptual intelligence and a FSIQ. On the intellectual testing, Claimant's verbal comprehension abilities were high average and his perceptual reasoning abilities were low average. Claimant's FSIQ was in the average range.

24. Dr. Meza tested Claimant's acquired academic skills by administering the WRAT-5. Claimant's reading, math computation skills, and sentence comprehension were in the average range. Claimant achieved a high average score for spelling.

25. Claimant's mother completed the rating assessment for the ABAS-3 which assesses adaptive behavior in the areas of communication, community use, functional academics, home living, health and safety, leisure, self-care, self-direction, and social skills. Claimant's General Adaptive Composite, Practical Composite, and Conceptual Composite were in the extremely low range. The Social Composite was in the low range.

26. Dr. Meza administered the ADOS-2 to Claimant. It is a semi-structured assessment of communication, social interaction, and imaginative use of materials that allows the examiner to observe behaviors that have been identified as important to an ASD diagnosis. Information from this measure must be combined with other clinical information to determine a diagnosis and does not stand on its own as a diagnostic tool.

27. To further assess for ASD, Dr. Meza conducted a second session with Claimant to administer the ADOS-2 in order to observe and note behaviors identified as characteristic of ASD. A clinical diagnosis of ASD may be appropriate if an individual's comparison score is equal to or greater than the Autism Spectrum cut-off. Claimant's comparison score fell in the range of Minimal-To-No Evidence for Autism Spectrum-related symptoms. Claimant did not meet the criteria for ASD.

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

A. Deficits in intellectual functions, such as Reasoning; Problem solving; Planning; Abstract thinking; Judgment; Academic learning, and learning by

experience, confirmed by both clinical assessment and individualized, standardized intelligence testing.

B. Deficits in adaptive functioning that result in failure to meet developmental and sociocultural standards for personal independence and social responsibility. Without ongoing support, the adaptive deficits limit functioning in one or more activities of daily life, such as communication, social participation, and independent living, across multiple environments, such as home, work, school, and community.

C. Onset of intellectual and adaptive deficits during the developmental period.

29. Dr. Meza determined that Claimant did not demonstrate any of these three deficits. As a result, Claimant did not meet the DSM-V criteria for ID.

30. Dr. Meza recommended that Claimant engage in mental health therapy to assist with managing the stressors related to his medical condition.

Testimony of Dr. Shilakes

31. WRC considered a diagnosis of Fifth Category but determined that Claimant did not meet the DSM-5 criteria. Both Dr. Cook and Dr. Meza concluded that Claimant's cognitive ability was in the average range. Dr. Shilakes noted that no characteristics of Fifth Category were present during any assessments or observations, and no evidence of below average FSIQ scores or poor academic achievement was presented.

32. The WRAT-5, an assessment of academic abilities, was administered to Claimant by both Dr. Cook and Dr. Meza. In the WRAT-5 assessment by Dr. Cook,

Claimant scored in the average to high average ranges in the four subtests. Dr. Meza also administered the WRAT-5 and yielded similar results, with Claimant scoring no lower than in the average range. Accordingly, there was no evidence of a cognitive delay or ID.

33. Claimant's scores on assessments of adaptive functioning were similar between the VABS-3 administered by Dr. Cook and the ABAS-3 administered by Dr. Meza. The scores on these assessments were based upon mother's report in response to specific questions. On the VABS-3, mother's responses resulted in a composite score in the moderately low range for adaptive functioning. On the ABAS-3, mother's report of Claimant's adaptive functioning yielded a composite score in the extremely low range.

34. WRC acknowledges that Claimant's physical conditions can cause fatigue, leading to a lack of focus, difficulty maintaining eye contact, or the need to have concepts repeated. The WRC does not dispute mother's assertion that Claimant's physical conditions affect his whole body, result in learning challenges, and impact his daily living skills.

35. Nevertheless, the evidence does not support a diagnosis of Fifth Category for eligibility purposes. Claimant's challenges are physical or related to learning disabilities and are not attributable to ID, cerebral palsy, epilepsy, autism, or disabling conditions closely related to ID or requiring treatment similar to that required for individuals with ID.

36. Claimant did not present evidence establishing that he requires any treatment similar to that required for individuals with an ID. Claimant receives medical

care for his physical conditions. However, that medical care is not similar to that required by a person with ID.

37. Claimant's school has made adaptations to Claimant's curriculum, which include extra time for exams and assignments, repetition, breaking items into smaller parts, and providing step by step reminders. (Exhibit D.) While those adaptations might be necessary for a student with an ID, they may also be required by a student with a learning disability.

38. Respondent's physician, Rachel Kramer, M.D., completed a Documentation of Medical Diagnosis for a Special Education evaluation. Dr. Kramer notes possible learning disabilities. She lists medical conditions which might significantly impact Claimant's school performance, as follows: "Takayasu's Arteritis, heart disease, s/p open heart surgery, morbid obesity, insulin resistance, GERD." Dr. Kramer states that Claimant reports difficulty focusing and doing schoolwork due to his medical conditions, fatigue, and frequent absences due to medical appointments. (Exhibit B).

39. Claimant is not in special education classes. His school counselor states that the school has "created systems and supports to assist [Claimant] academically, socially, and emotionally. . . . According to our team, [Claimant's] medical condition impacts his learning abilities and life skills." (Exhibit A.)

40. WRC found Claimant to be ineligible for regional center services based upon its determination that there is no evidence of a developmental disability, and that Claimant's disabling conditions are solely physical and possibly due to learning disabilities.

LEGAL CONCLUSIONS

1. An administrative hearing to determine the rights and obligations of the parties, if any, is available under the Lanterman Act to appeal a contrary service agency decision. (Welf. & Inst. Code, §§ 4700-4716.) Mother requested a hearing, on Claimant's behalf, to contest WRC's proposed denial of Claimant's eligibility for services under the Lanterman Act and therefore jurisdiction for this appeal was established.

2. Generally, when an applicant seeks to establish eligibility for government benefits or services, the burden of proof is on the applicant to prove by a preponderance of the evidence that he meets the criteria for eligibility. (*Lindsay v. San Diego Retirement Bd.* (1964) 231 Cal.App.2d 156, 161; Evid. Code, §§ 115, 500.) "Preponderance of the evidence means evidence that has more convincing force than that opposed to it. [Citations] . . . [T]he sole focus of the legal definition of 'preponderance' in the phrase 'preponderance of the evidence' is the quality of the evidence. The quantity of the evidence presented by each side is irrelevant." (*Glage v. Hawes Firearms Co.* (1990) 226 Cal.App.3d 314, 324-325.)

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

[A] disability that originates before an individual attains 18 years of age; continues, or can be expected to continue, indefinitely; and constitutes a substantial disability for that individual. . . . [T]his term shall include intellectual disability, cerebral palsy, epilepsy, and autism. This term shall also

include disabling conditions found to be closely related to intellectual disability or to require treatment similar to that required for individuals with an intellectual disability, but shall not include other handicapping conditions that are solely physical in nature.

The eligibility categories of ID, cerebral palsy, epilepsy, and ASD are not at issue in this fair hearing. Claimant seeks eligibility solely under the Fifth Category.

4. California Code of Regulations, title 17 (CCR), section 54000, subdivision (c) also defines a developmental disability. It contains the same criteria as Welfare and Institutions Code section 4512, but specifically excludes conditions which are solely psychiatric, learning disabilities, or physical in nature. CCR, section 54000, subdivision (c)(2), excludes learning disabilities, and subdivision (c)(3) excludes solely physical conditions not associated with a neurological impairment that result in a need for treatment similar to that required for ID.

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

6. Additionally, California Code of Regulations, title 17, section 54001 further refines the definition of "substantial disability." It 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

7. California Code of Regulations, title 17, section 54001, subdivision (b), provides, in pertinent part, that the "assessment of substantial disability shall be made by a group of Regional Center professionals of differing disciplines," and the "group shall include as a minimum a program coordinator, a physician, and a psychologist."

8. The Lanterman Act and its implementing regulations contain no definition of the qualifying developmental disability of ID. Consequently, when

determining eligibility for services and supports on the basis of ID, that qualifying disability had previously been defined by the DSM-5 diagnostic definition of ID.

9. The DSM-5 describes ID as follows:

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

- A. Deficits in intellectual functions, such as reasoning, problem solving, planning, abstract thinking, judgment, academic learning, and learning from experience, confirmed by both clinical assessment and individualized, standardized intelligence testing.
- B. Deficits in adaptive functioning that result in failure to meet developmental and socio-cultural standards for personal independence and social responsibility. Without ongoing support, the adaptive deficits limit functioning in one or more activities of daily life, such as communication, social participation, and independent living, across multiple environments, such as home, school, work, and community.
- C. Onset of intellectual and adaptive deficits during the developmental period.

(DSM-5, p. 33.)

10. The DSM-5 notes the need for assessment of both cognitive capacity and adaptive functioning and that the severity of ID is determined by adaptive functioning rather than IQ score. (*Id.* at 37.)

11. The Fifth Category is not defined in the DSM-5. In *Mason v. Office of Administrative Hearings* (2001) 89 Cal.App.4th 1119, 1129, the California Court of Appeal held that the Fifth Category was not unconstitutionally vague and set down a general standard: "The fifth category condition must be very similar to [ID], with many of the same, or close to the same, factors required in classifying a person as [ID]. Furthermore, the various additional factors required in designating an individual developmentally disabled and substantially handicapped must apply as well."

12. An individual can qualify for regional center services under the Fifth Category if he satisfies either of two prongs by having: (1) a condition closely related to ID or (2) a condition requiring treatment similar to that required for an intellectually disabled individual. (*Samantha C. v. State Department of Developmental Services* (2010) 185 Cal.App.4th 1462.)

13. Determining whether a claimant's condition "requires treatment similar to that required" for persons with ID is not a simple exercise of enumerating the services provided and finding that a claimant would benefit from them. Many people, including those who do not suffer from ID, or any developmental disability, could benefit from the types of services offered by regional centers (e.g., counseling, vocational training, living skills training, or supervision). The criterion therefore is not whether someone would benefit from the provision of services, but whether that person's condition requires treatment similar to that required for persons with ID, which has a narrower meaning under the Lanterman Act than services. (*Ronald F. v. Dept. of Developmental Services (Ronald F.)* (2017) 8 Cal.App.5th 94, 98.)

Discussion

14. Claimant displayed cognitive skills in the average range when tested by both Dr. Cook and Dr. Meza. Based on reporting by Claimant's mother, he showed deficits in adaptive skills on a variety of measures. However, Claimant's cognitive skills, regardless of his reported adaptive skill deficits, render his cognitive level too high for him to be considered intellectually disabled. Therefore, Claimant provided insufficient evidence to establish that he demonstrates deficits in cognitive and adaptive functioning to such a degree and in such a manner that he qualifies under the Fifth Category of eligibility, i.e., a person suffering from a condition similar to ID or requiring treatment similar to ID.

15. In addition, Welfare and Institutions Code section 4512, subdivision (a), and CCR, section 54000, subdivisions (c)(2) and (3), exclude learning disabilities and solely physical conditions.

16. Claimant has physical conditions and possible learning disabilities. The evidence presented by both WRC and Claimant establishes that any impacts on Claimant's learning, self-care, self-direction and capacity for independent living stem from Claimant's physical conditions or learning disabilities, rendering him ineligible for regional center services. This determination is supported by clinical observations, history, assessments, and testimony. (Factual Findings 2, 4, 5, 17, 30, 34 & 38-40.)

Disposition

17. The preponderance of the evidence supports a finding that Claimant is ineligible to receive regional center services under the Fifth Category of eligibility, as a person suffering from a condition similar to ID or requiring treatment similar to ID. (Factual Findings 1-40 and Legal Conclusions 1-16.)

ORDER

Claimant's appeal is denied. Claimant is ineligible for regional center services under the Fifth Category.

DATE:

LAURIE PEARLMAN
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.