

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

In the Matter of:

CLAIMANT,

vs.

NORTH LOS ANGELES COUNTY REGIONAL CENTER,

Service Agency.

OAH No. 2022060512

DECISION

Chris Ruiz, Administrative Law Judge (ALJ), Office of Administrative Hearings (OAH), State of California, heard this matter by videoconference on August 22 and September 16, 2022.

Stella Dorian, Fair Hearings Representative, represented the North County Los Angeles Regional Center (RC or Regional Center).

Claimant's mother (Mother) represented Claimant, who was present during the hearing.

Ximena Blanco Fernandez, Excel Interpreting, provided Spanish to English and English to Spanish interpreting services on August 22, 2022.

Marisol Salazar-Martinez, Interpreters Unlimited, provided Spanish to English and English to Spanish interpreting services on September 16, 2022.

Testimony and documents were received in evidence. The record was closed, and the matter was submitted for decision on September 16, 2022.

ISSUE

Whether Claimant is eligible to receive services from RC pursuant to the Lanterman Developmental Disabilities Services Act (Lanterman Act) under the qualifying diagnosis of autism spectrum disorder (ASD) or intellectual disability (ID)?

FACTUAL FINDINGS

Jurisdictional Matters

1. Claimant is a 29-year-old female who requested services from RC.
2. On February 4, 2022, RC sent a letter and a Notice of Proposed Action (NOPA) to Claimant notifying her she was found ineligible for RC services. RC concluded that Claimant does not have a diagnosis of ID or ASD.
3. On May 31, 2022, RC mailed another letter and NOPA to Claimant. The letter stated, "We were unable to complete the assessment for this reason: lack of records." The NOPA stated, "Proposed action: Closure of NLACRC intake case; eligibility has not been determined."

4. The record is unclear as to why RC sent the May 31, 2022 letter and NOPA after RC had previously denied eligibility in its February 4, 2022 letter and NOPA.

5. Claimant submitted a Fair Hearing Request (FHR), which appealed RC's decision to deny eligibility. Claimant's FHR form is dated June 06, 2020. The record is unclear as to why Claimant's FHR is dated 2020, rather than 2022.

6. In any event, both parties appeared at hearing and agreed to have the ALJ decide the above-stated issue.

RC's History and Prior Evaluation of Claimant

7. Claimant discontinued attending school after the fifth grade.

8. In 2012, Claimant arrived in the United States at age 17.

9. In 2013, at age 19, Claimant was evaluated by RC for eligibility. Claimant was evaluated by Dr. Efrain A. Beliz, a psychologist. RC also completed a social assessment.

10. Dr. Beliz administered both verbal and non-verbal tests of intelligence to assess Claimant's cognitive functioning. Dr. Belize determined Claimant had the capacity to function in the average range of cognitive functioning and Claimant's test scores did not suggest a diagnosis of ID.

11. Dr. Beliz also evaluated Claimant for ASD. During his testing and interactions with Claimant, Dr. Beliz observed Claimant did not exhibit any problems with language and communication, social reciprocity, imagination, or play. Claimant

also did not exhibit any stereotyped, repetitive, or self-stimulating behaviors. Dr. Beliz did not find any evidence to support a diagnosis of ASD.

12. Based on Dr. Beliz's evaluation and RC's social assessment, RC denied eligibility and recommended Claimant receive mental health services.

13. Since 2013, Claimant has been receiving mental health services, which are currently being provided by San Fernando Valley Community Mental Health (SFVCMH).

Claimant's Current Request for Evaluation for Eligibility

14. Mother informed RC that Claimant's functioning level has deteriorated since Claimant was evaluated by RC in 2013. Mother requested RC reevaluate Claimant to determine the reason for Claimant's decline in functioning level.

15. Mother also informed RC that Claimant's current treating psychiatrist believes Claimant exhibits symptoms of ASD. The treating psychiatrist told Mother that she should request an eligibility evaluation by RC.

16. After Mother requested an evaluation of eligibility for Claimant, the parties met informally by telephone to discuss the situation. On June 29, 2022, RC sent Claimant a letter, which summarized their informal discussion. This six-page letter (Exhibit 18) explained why RC concluded Claimant is not eligible to receive RC services. RC's Eligibility Determination Committee (EDC) reviewed the information gathered in 2013 and 2022, and Dr. Beliz's report. The EDC concluded the available information did not suggest Claimant has an ID or ASD. Dr. Beliz's evaluation was completed when Claimant was 19 years-old, which was immediately after the end of Claimant's developmental period. At that time, Claimant was found to not have an ID or ASD.

17. Because Claimant did not offer new information regarding her condition prior to age 18, and the Lanterman Act defines a developmental disability as a disability which must originate before an individual attains age 18., RC concluded there was no reason to reassess Claimant.

18. As part of RC's denial of Claimant's eligibility for services, RC recommended Mother request a comprehensive evaluation for Claimant through SFVCMH.

LEGAL CONCLUSIONS

1. The Lanterman Act (Welf. & Inst. Code, § 4500 et seq.) provides services and supports to individuals with developmental disabilities.

2. Individuals who disagree with regional center determinations, such as in this case, may appeal the determination through a fair hearing process. (Welf. & Inst. Code, §§ 4700-4716, and Cal. Code Regs., tit. 17, §§ 50900-50964).

3. Because claimant seeks to establish her eligibility for services, she bears the burden to demonstrate her eligibility, and that the RC's decision to deny eligibility is incorrect. (See Evid. Code §§ 115.)

4. Welfare and Institutions Code (Code) section 4512, subdivision (a), defines a developmental disability as ". . . a disability which originates before an individual attains age 18; continues or can be expected to continue, indefinitely, and constitutes a substantial disability for that individual." The sole qualifying disabilities are: "intellectual disability, cerebral palsy, epilepsy, and autism. . . [and] 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.” (Id.)

5. In determining eligibility, “the Lanterman Act and implementing regulations clearly defer to the expertise of the DDS (California Department of Developmental Services) and regional center professionals’ determination as to whether an individual is developmentally disabled.” (*Mason v. Office of Administrative Hearings* (2001) 89 Cal.App.4th 1119, 1127.) In this case, RC previously determined that Claimant (at age 19) did not present with an ID or ASD diagnosis, which resulted in her being found not eligible for RC services. Claimant did not present any new information regarding Claimant’s condition prior to age 18. Therefore, RC was entitled to rely on its prior determination in 2013.

6. Claimant and Mother presented as sympathetic and credible. Mother is understandably concerned Claimant’s functioning level has diminished since age 19 and Claimant requires more assistance than she is currently receiving. Mother is also concerned Claimant may be unable to care for herself when Mother is no longer able to assist Claimant in her daily life.

7. Despite Mother’s concerns, Claimant did not establish RC’s decision finding her ineligible for Lanterman Act services and supports is incorrect. For Claimant to be eligible for RC services and supports, she must have, in part, a disability which originated before attaining age 18.

8. RC is responsible for evaluating individuals who are potentially eligible for RC services. RC was not obligated to reevaluate Claimant after she was found not eligible in 2013. Claimant did not provide RC with any additional documents or

information regarding Claimant before she became 18 years old. Therefore, RC's reliance on its 1993 evaluation of Claimant was appropriate.

9. For all the above reasons, RC's decision is affirmed, consistent with the order below.

ORDER

1. Claimant is not eligible for regional center services and supports under the Lanterman Developmental Disabilities Services Act.

2. Claimant's appeal is denied.

DATE:

CHRIS RUIZ

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.