

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

**In the Matter of:**

**CLAIMANT**

**v.**

**SAN ANDREAS REGIONAL CENTER, Service Agency.**

**OAH No. 2022070291**

**DECISION**

Administrative Law Judge Juliet E. Cox, State of California, Office of Administrative Hearings, heard this matter on July 28, 2022, by videoconference.

Claimant's parents appeared representing claimant. Claimant was not present.

Executive Director's designee James Elliott appeared for service agency San Andreas Regional Center (SARC).

The matter was submitted for decision on July 28, 2022.

**ISSUE**

Is claimant eligible or provisionally eligible for services under the Lanterman Developmental Disabilities Services Act (the Lanterman Act)?

## **FACTUAL FINDINGS**

1. Claimant is three years old and lives with her parents and a teenage sibling. Claimant also has a young adult sibling who does not live with claimant and claimant's parents.

2. Beginning when she was 23 months old, claimant received speech therapy services, funded through the San Benito County Early Start program and coordinated by SARC. Claimant's parents had sought these services because claimant's vocabulary at that time comprised only one word.

3. Claimant's SARC service coordinator (Eva Daley) and her speech therapist (Myra Carillo) administered the Battelle Developmental Inventory (BDI), a standardized assessment of developmental progress, to claimant in October 2021. They observed and reported that claimant's abilities and behaviors regarding personal responsibility, adult and peer interaction, self-concept, fine and perceptual motor skills, and reasoning and perception were age-appropriate. With respect to self-care, receptive and expressive communication, gross motor skills, and attention, claimant showed some delay relative to her age, but was within normal limits given the wide variation in young children's developmental patterns.

4. Carillo prepared an "exit report" about claimant for SARC in April 2022, when claimant was 35 months old. She reported that although speech therapy had enlarged claimant's vocabulary, claimant continued to "demonstrate difficulty using her vocabulary on a consistent basis with her family for a variety of purposes."

5. SARC determined in April 2022 that claimant was neither eligible nor provisionally eligible under the Lanterman Act for continuing services from SARC.

SARC issued a Notice of Proposed Action on May 9, 2022, denying Lanterman Act services to claimant. Her parents made a timely request for a review hearing.

6. Regina Sueoka, M.F.T., evaluated claimant at Kaiser Permanente's San Jose Autism Spectrum Disorder Center in May 2022, just after claimant's third birthday. Sueoka reported that claimant "meets DSM-5 criteria for a diagnosis of Autism Spectrum Disorder." Sueoka recommended further evaluation for appropriate services through Kaiser Permanente.

7. By comparison with children of similar age, Sueoka described claimant's physical, emotional, and general development as "below average"; her communication as "delayed"; and her adaptive function and cognitive abilities as "average." Overall, Sueoka characterized claimant's impairment due to autism spectrum disorder as "mild," noting that although claimant struggles with communication and social relationships she does have some social interests and communication skills and does not have "severe impairments in her adaptive functioning."

8. At home, claimant's family members speak primarily Spanish. Claimant attends a home day care where English is the primary language. Claimant uses both English and Spanish words with others, and her parents believe she understands words and phrases in both languages.

9. According to her father, claimant socializes poorly with her peers in day care, preferring to play alone. She uses words, but rarely phrases or sentences, and often indicates her wishes by pointing rather than speaking. Claimant is clumsy: she stumbles on stairs and cannot run or jump as well as many other three-year-old children. Her parents are seeking services for claimant from several sources (including Kaiser Permanente, the local public school system, and SARC) because they know that

claimant is in a critical developmental period, especially for language. They want to make sure she has the support she needs to learn to interact well with other children and achieve her highest potential.

## **LEGAL CONCLUSIONS**

1. The State of California accepts responsibility for persons with developmental disabilities under the Lanterman Act. (Welf. & Inst. Code, § 4500 et seq.) Lanterman Act services are provided through a statewide network of private, nonprofit regional centers, including SARC. (*Id.*, § 4620.)

2. A “developmental disability” potentially qualifying a person for services under the Lanterman Act is “intellectual disability, cerebral palsy, epilepsy, [or] autism,” or any other condition “closely related to intellectual disability or [requiring] treatment similar to that required for individuals with an intellectual disability.” (Welf. & Inst. Code, § 4512, subd. (a)(1); see Cal. Code Regs., tit. 17, § 54000, subd. (a).) The matters stated in Finding 6 confirm that claimant has a developmental disability potentially qualifying her for Lanterman Act services.

3. A qualifying disability must be “substantial,” meaning that it causes “significant functional limitations in three or more of the following areas of major life activity . . . : (A) Self-care. (B) Receptive and expressive language. (C) Learning. (D) Mobility. (E) Self-direction. (F) Capacity for independent living. (G) Economic self-sufficiency.” (Welf. & Inst. Code, § 4512, subds. (a)(1), (l)(1); Cal. Code Regs., tit. 17, § 54001, subd. (a)(2).) In addition, the Lanterman Act deems three- and four-year-old children “provisionally eligible for regional center services,” regardless of formal diagnosis, if they show “significant functional limitations” in at least two age-relevant

major life activities (self-care, receptive and expressive language, learning, mobility, or self-direction). (Welf. & Inst. Code, § 4512, subd. (a)(2).)

4. The matters summarized in Findings 3 through 9 establish that claimant has some impairment in communication, and possibly also in gross motor skills. These matters do not show, however, that claimant has significant functional limitations in receptive or expressive communication or in mobility, by comparison with other children her age. Further, the evidence at this hearing did not show that claimant has limitations in any other major life activity, as compared to other three-year-old children.

5. Claimant does not currently demonstrate substantial disability qualifying her for Lanterman Act services from SARC. Claimant also does not demonstrate limitations qualifying her provisionally for such services.

## **ORDER**

Claimant's appeal from SARC's determination that claimant has not demonstrated present eligibility or provisional eligibility for services under the Lanterman Act is denied.

DATE:

JULIET E. COX  
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.