

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

In the Matter of:

CLAIMANT,

vs.

SOUTH CENTRAL LOS ANGELES REGIONAL CENTER,

Service Agency.

OAH No. 2022080850

DECISION

Chris Ruiz, Administrative Law Judge (ALJ), Office of Administrative Hearings (OAH), State of California, heard this matter by videoconference on October 31, 2022.

Tami Summerville, Fair Hearings Manager, represented South Central Los Angeles Regional Center (RC or Regional Center).

Claimant's foster mother (Mother) represented Claimant.

Maria Aguirre de Carcer, Interpreters Unlimited, provided Spanish to English and English to Spanish interpreting services.

Testimony and documents were received in evidence. The record closed and the matter was submitted for decision on October 31, 2022.

ISSUE

Whether Claimant is eligible to receive services from RC pursuant to the Lanterman Developmental Disabilities Services Act (Lanterman Act)?

EVIDENCE RELIED ON

Exhibits 1-10, Testimony of Dr. Laurie Brown, Mother, and Grandmother.

FACTUAL FINDINGS

Jurisdictional Matters

1. Claimant is a 14-year-old female who has requested services from RC.
2. On May 20, 2022, RC sent a letter to Claimant notifying her she was found ineligible for RC services. RC concluded that Claimant does not have a qualifying diagnosis of intellectual disability, cerebral palsy, epilepsy, autism, or a disabling condition found to be closely related to intellectual disability or to require treatment similar to that required for individuals with an intellectual disability. RC concluded that Claimant has a diagnosis of Language Disorder and Fetal Alcohol Disorder.
3. On August 8, 2022, Claimant submitted a Fair Hearing Request (FHR), which appealed RC's decision to deny eligibility.

RC's First Evaluation of Claimant in 2019

4. On June 24, 2019, at age 11, Claimant was evaluated by RC for eligibility to receive services and supports. Claimant was evaluated by Yoselin De Los Santos, Psy.D (Psychological Assistant) and Krystel Edmonds-Biglow, Psy.D. (licensed psychologist) (Biglow). Biglow found Claimant had minimal-to-no symptoms of autism spectrum disorder and her nonverbal IQ was in the average range, which precluded a diagnosis of intellectual disability. Claimant was found to have a history of significant trauma. Thereafter, RC found Claimant not eligible for services and supports.

RC's Second Evaluation of Claimant in 2022

5. On March 14, 2022, RC sent Claimant to Thomas L. Carrillo (Carrillo), clinical psychologist, for evaluation. Claimant was 13 years and nine months old. Because of the COVID-19 pandemic, the evaluation was conducted by videoconference.

6. Carrillo found Claimant to have minimal-to-no symptoms of autism spectrum disorder.

7. Carrillo diagnosed Claimant as having a Language Disorder and Fetal Alcohol Syndrome, with related mild delays in adaptive functioning and cognitive abilities within the low-normal range.

8. However, Carrillo acknowledged the limitations of an evaluation conducted by videoconference. Carrillo stated, "It would be prudent to have [Claimant] re-evaluated after the mandate for social distancing is lifted. The re-evaluation should include a comprehensive battery of cognitive testing, so as to obtain a concise determination of her cognitive potential." (Exhibit 3, page 8.)

9. Based on Carrillo's evaluation and RC's social assessment, RC denied eligibility.

Other Findings

10. Claimant is currently receiving special education services from her school district.

11. Mother and Claimant's Grandmother (Grandmother) both testified. Mother is dissatisfied with Carrillo's evaluation because it was not conducted in person, which is an understandable concern. Mother and Grandmother are concerned with Claimant's well-being, and they want to access all available services which may help Claimant. Mother believes Claimant has a learning disability and mild autism.

12. For Claimant to be potentially eligible to receive services and supports from RC, Claimant must have a qualifying diagnosis, as described in Factual Finding 2. However, Claimant did not offer a medical report, or a medical professional's testimony, which indicated Claimant has a qualifying disability. Therefore, Claimant did not establish she has a qualifying disability.

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 has assessed Claimant for eligibility on two occasions, in June 2019 and March 2022. In both instances, the evaluating doctors did not diagnose Claimant as having a qualifying disability, such as intellectual disability or autism spectrum disorder.

6. Claimant's Mother and Grandmother presented as sympathetic and credible. Both are understandably concerned about obtaining whatever assistance is available to help Claimant and her family.

7. Claimant did not establish RC's decision finding her not eligible for Lanterman Act services and supports is incorrect. For Claimant to be eligible for RC

services and supports, she must have, in part, one of the qualifying disabilities, which Claimant did not establish, as set forth in Factual Findings 2 and 12.

9. Therefore, RC's determination must be upheld at this time. However, Dr. Carrillo's evaluation of Claimant was limited because it was conducted using video, as compared to an in-person evaluation. Dr. Carrillo's recommended RC reassess Claimant once in-person evaluations are allowed. Therefore, 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 at this time, pursuant to the Lanterman Developmental Disabilities Services Act.

2. Claimant's appeal of RC's denial of eligibility is denied.

3. On January 1, 2023, or any time thereafter, Claimant may request RC perform an in-person assessment (if then allowed under local, state, and federal law) for eligibility.

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.