

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

**In the Matter of:**

**CLAIMANT,**

**vs.**

**SOUTH CENTRAL LOS ANGELES REGIONAL CENTER,**

**Service Agency.**

**DDS No. CS0009631**

**OAH No. 2023100574**

**DECISION**

Howard W. Cohen, Administrative Law Judge (ALJ), Office of Administrative Hearings, State of California, heard this matter on February 28, 2024, by videoconference.

Tami Summerville, Appeals Manager, represented South Central Los Angeles Regional Center (SCLARC).

Claimant's mother and authorized representative appeared on behalf of claimant, who was present. Claimant's father also appeared and testified. The names of claimant and her family members are omitted to protect their privacy. A certified

Spanish language interpreter, Maria del Carmen Aguirre, was present to assist claimant's parents.

Oral testimony and documentary evidence was received. The record was closed and the matter was submitted for decision on February 28, 2024.

## **ISSUE**

Is claimant eligible to receive services and supports from SCLARC under the Lanterman Developmental Disabilities Services Act (Lanterman Act)?

## **EVIDENCE RELIED UPON**

Documents: Service Agency's exhibits 1 through 7; claimant's exhibit A.

Testimony: Laurie McKnight Brown, Ph.D.; claimant's father and mother.

## **FACTUAL FINDINGS**

### **Parties and Jurisdiction**

1. Claimant is a non-conserved 29-year-old man who lives at home with his parents and two siblings in Compton. In spring of 2023, claimant's mother asked SCLARC to determine claimant's eligibility for services and supports due to concerns that claimant may have Autism Spectrum Disorder (ASD).

2. SCLARC conducted a psycho-social evaluation of claimant on May 1, 2023. (See Factual Findings 16-20, *infra*). On June 6 and 13, 2023, a SCLARC consultant conducted a psychological evaluation of claimant. (See Factual Findings 21-35, *infra*).

3. On August 15, 2023, a SCLARC interdisciplinary eligibility team reviewed the results of the psychosocial and psychological evaluations, as well as documents from claimant's school district. (See Factual Findings 36-38, *infra*.)

4. In a Notice of Action letter to claimant's father dated August 22, 2023, SCLARC denied claimant is eligible for regional center services under the Lanterman Act. (Ex. 1, p. A14.) The letter states:

[Y]ou do not have a "developmental disability" as that term is defined by California Welfare and Institutions Code, Section 4512, subdivisions (a) and (l) and the California Code of Regulations, Title 17, Sections 54000 through 54002. *While you were diagnosed per psychological evaluation with Autism Spectrum Disorder (ASD) and Intellectual Disability, Mild (ID), you have been ineligible for regional center services at this time at [sic] as there is no evidence that either condition was present during the developmental period, necessary for eligibility of regional center services. School records indicate you received special education services under the designation of OHI or Other Health Impairment, often indicative of an attention issue. Additionally, it appears such services were received through RSP or in/through general education classes. Throughout your formal education, there was no indication of cognitive issues, delayed, or deficits. In order for a true intellectual disability to be such, it must be substantiated in the developmental period, which is not the case here. While it*

appears that you CURRENTLY exhibits [*sic*] some cognitive issues, such issues must be evident prior to his [*sic*] current age of 28. Additionally, you reported being diagnosis [*sic*] of Schizophrenia with two psychiatric hospitalizations, with some symptoms mimicking those of other diagnoses. Again, with regards to ASD, there is no evidence that such a condition existed or was even suspected in the developmental period with one of the diagnostic conditions being evidence in EARLY development.

(Ex. 1, p. A14, italics added.) SCLARC recommended that claimant “refer to psychological report for interventions.” (*Id.* at p. A15.)

5. On September 14, 2023, claimant’s parents appealed SCLARC’s determination that claimant is not eligible for services and requested a hearing.

6. All jurisdictional requirements have been met.

### **Claimant’s School District Documents**

7. An initial Individualized Education Program (IEP) that claimant’s school district prepared reflected an IEP meeting dated June 10, 2011, when claimant was 17 years old. The IEP notes that claimant was a 10th grade student referred for assessment by the school student study team. Claimant’s mother, two IEP coordinators, a school counselor, and a general education teacher were present for the IEP meeting. The school psychologist, Denise Evans, presented her psychoeducational assessment.

## **CLAIMANT'S PSYCHOEDUCATIONAL REPORT**

8. Ms. Evans assessed claimant and prepared a psychoeducational report dated June 6, 2011. Ms. Evans wrote claimant's mother requested the evaluation because claimant "only earned 55 out of 90 attempted credits. Additionally, he is currently failing 4 out of 6 classes. [Claimant's mother] suspects that [claimant] may have a Specific Learning Disability and/or have: attention difficulties. Information obtained from the current evaluation will assist in educational planning." (Ex. 6, p. A60.)

9. Claimant's mother reported claimant was diagnosed with Attention Deficit Hyperactivity Disorder (ADHD) prior to 2004, when he lived in Mexico, and that he received counseling. Claimant's mother completed a developmental history questionnaire and did not report concerns about claimant's developmental milestones. This is at variance with what claimant's mother reported to SCLARC's service coordinator at claimant's psychosocial assessment and a SCLARC psychologist consultant at claimant's psychological evaluation (see Factual Findings 16 through 35, *infra*), and with claimant's mother's and father's testimony at this hearing (see Factual Findings 39 through 45, *infra*).

10. Ms. Evans noted that claimant was then in 10th grade. Claimant attended school in the district since 2004, prior to which he attended school in Mexico. He was an English Language Learner enrolled in general education classes. "His recent grade report indicates he is only passing 2 out of 6 classes. He has earned 55 out of 90 attempted credits and needs 220 credits to receive a high school diploma. He has not passed the California High School Exit Exam. In general, teachers report concerns with work completion, defiance, disruptive behavior, use of electronics, and difficulty remaining on task." ((Ex. 6, p. A61.)

11. Ms. Evans interviewed claimant, reporting he made eye contact, completed tasks without prompting, and expressed an interest in attending a community college and becoming a professional soccer player though he did not participate in any school sports.

12. Ms. Evans applied various assessment instruments. On the Wechsler Intelligence Scale for Children, Fourth Edition (WISC-IV), claimant scored in the borderline range on verbal comprehension, perceptual reasoning, and processing speed, and low average on working memory. "His overall ability is classified as borderline, as his Full-Scale IQ is 72. This is equal to or higher than 3% of students his age." (Ex. 6, p. A66.) On the Naglieri Nonverbal Ability Test (NNAT), applied to provide a nonverbal measure of claimant's ability given his limited English, claimant scored in the low average range. As for academic achievement, Ms. Evans found no "severe discrepancy" between his ability and achievement in reading, mathematics, or written expression. (*Id.* at p. A68.)

13. In conclusion, Ms. Evans found claimant did not meet the criteria for a Specific Learning Disability, though he presented with an attention processing disorder and met the criteria for Other Health Impairment (OHI), assigned to students with ADHD-like characteristics.

### **CLAIMANT'S JUNE 2011 IEP**

14. School district records show claimant's June 2011 IEP to be his first. The IEP found claimant presented with ADHD-like characteristics and was eligible for special education services due to OHI, with a special education setting for his math instruction. (Ex. 5, pp. A47, A50). Claimant was having trouble in school with inattention, math, and writing. Claimant's IEP goals included pre-vocational skills and

post-secondary transition, stating, "Upon leaving high school [claimant] will access the Dept. of Rehab for vocational training and job placements" and "will participate in competitive employment" though he is "unsure what specific job [he] is interested in at this time." (Ex. 5, p. A52.) Claimant's academic goals included earning passing grades in all classes in the coming year. (*Id.* at p. A55.) Claimant's mother made no mention of ASD or ID at the IEP meeting; the IEP does not reference those conditions.

15. Claimant did not graduate from high school.

### **SCLARC's May 2023 Psycho-Social Evaluation**

16. In 2023, when claimant was 29 years old, claimant's mother requested that SCLARC assess claimant's eligibility for services and supports. She suspected claimant has ASD and was concerned about claimant's capacity for independent living and self-sufficiency. Maritza Cortes, a service coordinator at SCLARC, conducted a psycho-social assessment of claimant on May 1, 2023.

17. In her report dated June 2, 2023, Ms. Cortes noted that claimant had been diagnosed with ADHD at the age of seven and, at an unspecified later date, with schizophrenia. Ms. Cortes wrote claimant was hospitalized at least twice for mental health issues, once after a suicide attempt, and receives psychological therapy services. Claimant exhibits repetitive behaviors such as rocking; he speaks to himself, does not tolerate crowds and noise, does not like going out, and has difficulty making friends. He had no history of seizures. Ms. Cortes noted a family history of developmental disabilities and psychiatric disorders. Claimant's mother reported that claimant's early development was delayed. "He walked at 14 months. He tripped and fell often. He said his first words at 18 months and spoke in sentences at age 3." (Ex. 2, p. A19.)

18. Ms. Cortes noted claimant can feed, bathe, and dress himself when prompted and assisted. He does not always wipe himself after using the toilet. He does not help with household chores. He can reheat food in the microwave. Claimant needs a lot of repetitions and prompts to follow commands, has difficulty retaining new information, and does not initiate conversation or make eye contact. He does not know how to drive or take public transportation; his parents must drive him everywhere. Claimant completed the 11th grade and qualified for special education services from his school district as a student with Other Health Impairment (OHI). He did not graduate high school. He hopes to work one day but has been unsuccessful at finding a job for the past 10 years, other than one day of work at a swap meet. He receives Social Security income and Medi-Cal benefits; his mother helps him manage his money.

19. Claimant does not have many friends and only interacts with them virtually. He seldom interacts with his family, choosing to remain alone in his bedroom. He sometimes hears voices and leaves home to avoid them.

20. Ms. Cortes recommended that a psychological evaluation be performed "to evaluate for the presence of developmental disability" and to present the findings to SCLARC's interdisciplinary team to determine eligibility. (Ex. 2, p. A20.)

## **June 2023 Psychological Assessment**

21. On June 6 and 13, 2023, Sammie Williams, Psy.D., performed a psychological assessment of claimant at SCLARC's request. Dr. Williams wrote that her evaluation would "assess [claimant] for developmental disabilities related to an intellectual disability (ID) and/or autism spectrum disorder (ASD). Thus, the present



evaluation is not a comprehensive evaluation of mental health or other potential psychiatric disorders.” (Ex. 3, p. A23.)

22. Dr. Williams reviewed several documents: two IEP’s, dated June 10, 2011, and June 6, 2012, and a Psychoeducational Report, dated June 6, 2011, prepared by claimant’s school district, and Ms. Cortes’s psychosocial report. Dr. Williams interviewed claimant’s mother and administered the following testing instruments: Adaptive Behavior Assessment System–Third Edition (ABAS-3), Autism Diagnostic Interview – Revised (ADI-R), Social Responsiveness Scale–Second Edition (SRS-2: School Age), and Wechsler Adult Intelligence Scale– 4th Edition (WAIS-IV).

23. In her interview with Dr. Williams, claimant’s mother said claimant had delayed developmental milestones. He began walking at 12 months but fell frequently and struggled to speak two-to-three-word sentences at 24 months. Claimant’s parents noticed claimant was not speaking at the same age his brother was speaking. He had limited receptive communication as well, lined up items, was sensitive to touch, continued to fall frequently, only ate eggs, and would “run and hide” from noises. Claimant’s mother said she reported her concerns to claimant’s pediatrician. Throughout claimant’s school experience, claimant demonstrated “significant difficulties related to learning and social challenges.” (Ex. 3, p. A25.)

24. As of the time of Dr. Williams’s psychological evaluation, claimant’s mother said, claimant continued to exhibit speech and language delays, remained a picky eater, bit his nails, isolated himself, spoke in a loud and mechanical tone, did not engage with others, avoided eye contact, had ruminating thoughts, spoke off topic, and had difficulty with transitions and changes in his routine. (Ex. 3, p. A24.) He “often requires multiple prompts, redirections and ongoing supervision and support to remain engaged and on task,” and continued to have social challenges and poor self-

direction abilities. (*Ibid.*) Claimant received counseling services to address his behaviors.

25. Dr. Williams noted that claimant's school district psychologist administered the WISC-IV and found claimant's cognitive functioning to be in the borderline range with an IQ of 72 but reported that because claimant was an English learner, claimant's "low average" score on the Naglieri Nonverbal Aptitude Test (NNAT), used to assess examinees from different cultural and linguistic groups, should be a better estimate of claimant's cognitive ability than the WISC-IV. (Ex. 3, p. A24; see Factual Findings 8 through 13, *ante*.)

26. Based on her examination and the Diagnostic and Statistical Manual of Mental Disorders, 5th edition (DSM-5), Dr. Williams diagnosed claimant with ASD. Her diagnostic impressions included finding that claimant would be "requiring support for deficits in social interactions/communication (Level 3), [and] requiring support for restricted, repetitive behaviors (Level 3), with intellectual impairment." (Ex. 3, p. A29.) She at least implicitly found claimant's ASD was present in his developmental years, as the DSM-5 specifies as a diagnostic criterion of ASD that "[s]ymptoms must be present in the early developmental period (but may not become fully manifest until social demands exceed limited capacities, or may be masked by learned strategies in later life." (Ex. 7, p. A75.)

27. Dr. Williams also diagnosed claimant with ID, Mild. The DSM-5 notes, "[m]any individuals with autism spectrum disorder also have intellectual impairment and/or language impairment . . . ." (*Id.* at p. A80.) The DSM-5 also notes, "[d]elayed motor, language, and social milestones may be identifiable within the first 2 years of life among those with more severe intellectual disability, while mild levels may not be

identifiable until school age when difficulty with academic learning becomes apparent. (*Id.* at p. A89.)

28. Dr. Williams found claimant to be slow and methodical, but cooperative and receptive during testing. Claimant "consistently, and repetitively exhibits a range of body movements, hand, and finger gestures, while making various sounds and noises, as he does not communicate reciprocally with others, nor [does he] respond to his name, questions, or any direct (and meaningful) eye contact." (Ex. 3, p. A25.)

29. Applying the WAIS-IV, Dr. Williams found that claimant's cognitive functioning was in the "extremely low" range, "less than 99% of others his age." (Ex. 3, p. A26.) His verbal comprehension was in the borderline range. His perceptual reasoning index, measuring reasoning with nonverbal information, fell in the extremely low range. His working memory index, measuring claimant's ability to hold information active in his mind while solving a problem with it, as when remembering multi-step instructions, was in the extremely low range, "less than approximately 99% of others his age." (*Ibid.*) His processing speed index was also in the extremely low range.

30. Dr. Williams measured claimant's adaptive functioning using the ABAS-3, completed by claimant's mother. Dr. Williams found claimant's functional communication skills, academic skills, and ability to make independent choices were extremely low. Claimant's ability to function both in the community and in the home was in the extremely low range; his safety awareness and skills were in the extremely low range; his skills for completing work tasks were not rated.

31. To test for ASD, Dr. Williams had claimant's mother complete the SRS-2: Adult instrument, which assessed claimant's interpersonal behavior, communication, and repetitive and stereotypic behaviors characteristic of ASD. Claimant was in the

severe range for social awareness and expressive social communication; claimant "is typically unmotivated to engage in social-interpersonal behavior. Elements of social anxiety, inhibition, and empathic orientation are included . . . ." (Ex. 3, p. A28.) In the area of stereotypical behaviors or highly restricted interests, claimant functioned in the severe range. Claimant's total score for overall reciprocal social behavior and interference with everyday social interactions was in the severe range. Dr. Williams found, "These ratings appear to be consistent with observations as [claimant] has greatly struggled with social interactions due to his apparent low motivation, restricted interests, and poor social awareness and social cognition." (*Ibid.*)

32. Claimant's mother completed the ADI-R questionnaire, led by Dr. Williams. Among other things, claimant's mother reported that claimant's social responses are inappropriate, struggles to express his needs, does not effectively engage in reciprocal conversation, and has sensitivity to noise and stereotypical body movements. She also reported claimant's "deficits and related mannerisms were observed prior to age three." (Ex. 3, p. A29.)

33. Dr. Williams summarized that claimant:

is experiencing various symptoms associated with ASD and a cooccurring intellectual disability. [Claimant's] cognitive and intellectual scores suggest that overall, he is performing far below his same age peers. In addition, [claimant] is also struggling with internal emotional difficulties that limit his abilities to implement appropriate coping mechanisms that could then allow him to sustain self-regulation when required. [Claimant] has struggled with various observable symptoms, such as, poor reciprocal

communication, attention to task, restrictive/repetitive interests and behaviors, varying activity levels, poor problem solving, self-control and regulation, as well as a range of stereotypical behaviors.

. . . [Claimant has an] "Extremely Low" FSJQ of 51, including a well-documented history of developmental, speech/language and communication, as well as learning challenges . . . .

(Ex. 3, p. A29.)

34. In a section of her report entitled "Safety/Risk Assessment," Dr. Williams wrote claimant, "displays a gross lack of awareness of common (social) interactions, including reading the social cues and emotions of others, as well as identifying various non-verbal social cues. [Claimant's] family has been informed of safety risks and have agreed to take all necessary precautions, as she also understands that [claimant] requires a significant amount of adult guidance, support, and supervision (home, school, community) at all times." (Ex. 3, p. A29.)

35. Dr. Williams listed five recommendations for claimant: (1) claimant should continue psychological services and obtain a mental health services and medication consultation; (2) claimant's parents should explore establishing a conservatorship for claimant to reduce his risk of exploitation and harm; (3) claimant should seek appropriate services from SCLARC; (4) claimant should seek additional support from various ASD organizations; and (5) claimant's progress should "be carefully monitored to determine whether further evaluation is necessary in the future." (Ex. 3, p. A30.)

## **Eligibility Team Review of Claimant's Records**

36. Laurie McKnight Brown, Ph.D., the lead psychologist consultant at SCLARC and a member of various interdisciplinary teams, including the eligibility team, testified the team found claimant did not meet the criteria for eligibility, despite claimant's ASD and ID diagnoses, for one reason only: the team saw no evidence of claimant's ASD or ID during his developmental period, i.e., prior to age 18.

37. Claimant's parents and school district did not write of any concerns or suspicions about ID or ASD in claimant's IEP, where the only diagnosis for claimant was Other Health Impairment, which was consistent with claimant's prior diagnosis of ADHD. The school district did not find cognitive deficits or that claimant met the criteria for specific learning disability. Dr. Brown testified that if claimant "truly" had a developmental disability there would be evidence of it from his developmental years. Her skepticism is outweighed by Dr. Williams' diagnoses after a thorough psychological examination.

38. Dr. Brown testified that claimant's functioning may be better explained by his ADHD and schizophrenia. She testified that symptoms of ASD and schizophrenia can look alike and are often confused, so it is important to examine claimant's early developmental period. If claimant truly has ASD, indications would appear during that period. In contrast, schizophrenia onset may occur in the late teens or early adult years. The eligibility team decided that a decline in claimant's abilities in his teen years and the appearance of autistic-like behaviors and deficits reflect, not that claimant has ASD or ID, or both, but that he had teenage-onset schizophrenia.

## **Other Evidence**

39. Claimant's mother testified that claimant's ability to talk was delayed. After he was two years old, claimant would repeat things and also fall a lot.

40. Claimant went to preschool in Southern California and started kindergarten, but then moved with his father to Mexico at five years old. The move was difficult for him. Claimant's elementary school teacher in Mexico said he could not focus in class or share and play with other children. Claimant's mother, who went to Mexico eight months after claimant did, ignored claimant's conditions and difficulties. She had not heard of and did not know anything about ASD. While he was in Mexico, claimant was diagnosed with ADHD.

41. In 2004, claimant moved back to the United States. His school district placed him back one year, in fourth grade, instead of fifth grade. Claimant's symptoms continued through middle school; he had a lot of difficulty with activities of daily living and could not concentrate at school. Claimant's mother told his school that he had been diagnosed in Mexico with ADHD.

42. In 2013, the family moved from Downey to Compton. Claimant did not want to move; he had "a crisis" and was screaming. Claimant's mother took him to the emergency room at Lakewood Hospital; an ambulance then took him to the mental health department at Long Beach Community Hospital. A psychiatrist there told claimant's mother claimant was suffering from psychotic disorder. Later that year, claimant experienced another crisis; doctors treating him diagnosed him with schizophrenia. Claimant was about 19 years old. Then claimant was diagnosed with a combination of schizophrenia and schizoaffective disorder.

43. Claimant's mother testified that when claimant was a child, his parents treated him as a child without disabilities. She believes claimant's progress was hurt because of that. Claimant was experiencing many difficulties, and his mother could not understand him. But since taking claimant to therapists, she has learned about his conditions.

44. Claimant's father testified claimant presented with symptoms early; ever since he was very little, he was different from other children his age. He would push people. He would never answer a question, he would just laugh. When he was in his early teens, he continued to behave differently from other children; he would take things from children and had problems in school.

45. Claimant's father testified he was never able to have a conversation with claimant, who would only speak four or five sentences at the most, ever since claimant was very little. A school psychologist asked claimant's father what he thought would happen when claimant grows up. Claimant's father became upset at the suggestion claimant was not like other children and was embarrassed when the psychologist suggested claimant attend a specialized program at a different middle school. Claimant's parents did not send him to a different school. "We didn't put that much effort into it because we didn't want to accept it," he testified.

## **Summary of Evidentiary Findings**

46. The eligibility team's conclusions conflict with information in SCLARC's psychosocial assessment, in the psychological evaluation Dr. Williams performed at SCLARC's request, and in claimant's parents' testimony. The eligibility team did not dispute claimant's ASD and ID diagnoses, or that those conditions are substantially limiting in three or more major life activities, but, relying largely on claimant's IEP's,



concluded that there is no evidence that claimant's ASD or ID manifested before age 18.

47. The persuasive power of claimant's IEP is dubious. Claimant's parents never mentioned ASD or ID at claimant's IEP. The school district never assessed him for ASD but was content to accept his prior diagnosis of ADHD and to provide and continue services for ADHD, under the designation of OHI. The school district failed to account for troubling data concerning claimant's performance in class and socialization. Claimant's parents' unfamiliarity with ASD and their embarrassment and unwillingness to confront the reality of claimant's issues contributed to an education plan that did not take those conditions into account.

48. Claimant suffered an onset of schizophrenia at age 19. His parents learned about that condition and eventually also about ASD and ID. They provided SCLARC's service coordinator, Ms. Cortes, and SCLARC's psychologist, Dr. Williams, with information about claimant's delayed development as an infant and toddler and his continuing delays and disabilities throughout his developmental period. They offered convincing and detailed testimony at hearing about the inception of symptoms that may be attributed to claimant's developmental disabilities.

49. Considering the entire record, including claimant's parents' testimony, documentation from Dr. Williams, and the psycho-social evaluation, as well as claimant's IEP and psychoeducational report, evidence of substantially disabling ASD manifesting before age 18 is more persuasive than the eligibility team's conclusions.

## LEGAL CONCLUSIONS

1. Cause exists to grant claimant's request that he be found eligible for regional center services and supports under the Lanterman Act, as set forth in Factual Findings 1 through 49 and Legal Conclusions 2 through 12.

2. The Lanterman Act governs this case. (Welf. & Inst. Code, § 4500 et seq.) An individual may appeal a regional center's determination of ineligibility for services under the Lanterman Act. (Welf. & Inst. Code, §§ 4700-4716; Cal. Code Regs., tit. 17, § 54010, subd. (c).) The party asserting a claim generally has the burden of proof in administrative proceedings. (See, e.g., *Hughes v. Board of Architectural Examiners* (1998) 17 Cal.4th 763, 789, fn. 9.) In this case, claimant bears the burden of proving, by a preponderance of the evidence, that he is eligible for benefits or services. (See Evid. Code, § 115.)

3. To establish eligibility for regional center services under the Lanterman Act, claimant must show that he suffers from a developmental disability that "originate[d] before [he] attain[ed] 18 years of age; continues, or can be expected to continue, indefinitely; and constitutes a substantial disability for [him]." (Welf. & Inst. Code, § 4512, subd. (a); see also Cal. Code Regs., tit. 17, §§ 54000, 54010.)

4. To establish eligibility for regional center services, claimant must first show he has been diagnosed with one of five categories of developmental disability. (Welf. & Inst. Code, § 4512, subd. (a); Cal. Code Regs., tit. 17, §§ 54000.) The categories are cerebral palsy, epilepsy, autism, intellectual disability, and "disabling conditions found to be closely related to mental retardation or to require treatment similar to that required for individuals with mental retardation, but [that do] not include other handicapping conditions that are solely physical in nature." (Welf. & Inst. Code, § 4512,

subd. (a); Cal. Code Regs., tit. 17, § 54000, subd. (a).) Developmental disabilities do not include solely learning disabilities or solely psychiatric disorders. Learning disabilities are those that manifest as a significant discrepancy between estimated cognitive potential and actual level of educational performance and are not a result of Intellectual Disability or psychiatric disorders. (Cal. Code Regs., tit. 17, § 54000, subd. (c)(1)-(3).)

5. Claimant established that he has two developmental disabilities, ASD and ID. (Factual Findings 4, 21-35, 39-49.)

6. Second, to establish eligibility for regional center services, claimant must show his disability originated before age 18. (Welf. & Inst. Code, § 4512, subd. (a); Cal. Code Regs., tit. 17, § 54000, subd. (b).)

7. Claimant's parents never sought an evaluation of claimant for ASD until last year. The DSM-5 addresses the appropriate diagnostic approach to an individual who first seeks a diagnosis in adulthood:

Some individuals come for first diagnosis in adulthood, perhaps prompted by the diagnosis of autism in a child in the family or a breakdown of relations at work or home. Obtaining detailed developmental history in such cases may be difficult, and it is important to consider self-reported difficulties. Where clinical observation suggests criteria are currently met, autism spectrum disorder may be diagnosed, provided there is no evidence of good social and communication skills in childhood. For example, the report (by parents or another relative) that the individual had

ordinary and sustained reciprocal friendships and good nonverbal communication skills throughout childhood would rule out a diagnosis of autism spectrum disorder; however, the absence of developmental information in itself should not do so.

(Ex. 11, p. A232.)

8. The testimony of claimant's parents establishes that claimant experienced delayed developmental milestones and lacked good social, communication, and academic skills in childhood and throughout his adolescence, and is also in other ways consistent, under the DSM-5, with a finding that claimant is eligible for regional center services.

9. Third, SCLARC did not dispute that claimant's condition is expected to continue indefinitely.

10. Finally, claimant must prove that, as a result of his ASD and ID, he has a substantial disability in at least three of these 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; and (g) economic self-sufficiency. (Welf. & Inst. Code, § 4512, subd. (1)(1); Cal. Code Regs., tit. 17, § 54001, subd. (a).)

11. The evidence demonstrates substantial disability in all areas except mobility. (See Factual Findings 7-35, 39-49.) SCLARC does not dispute this. SCLARC argued, but the evidence did not establish, that claimant's substantial disability is a result of claimant's comorbid conditions of ADHD and schizophrenia.

12. Claimant established by a preponderance of the evidence that he is eligible for regional center services and supports under the Lanterman Act based on his substantially disabling ASD and ID.

**ORDER**

Claimant's appeal is granted. South Central Los Angeles Regional Center's decision denying claimant's request for regional center services is overturned.

DATE:

HOWARD W. COHEN

Administrative Law Judge

Office of Administrative Hearings