

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

In the Matter of:

CLAIMANT

and

**SOUTH CENTRAL LOS ANGELES REGIONAL CENTER, Service
Agency**

DDS No. CS0013243

OAH No. 2024030161

DECISION

Thomas Heller, Administrative Law Judge, Office of Administrative Hearings, State of California, heard this matter by videoconference on December 18, 2024.

Claimant was represented by her cousin. The names of Claimant and her family members are not used in this decision to protect their privacy.

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

Oral and documentary evidence was received. The record was closed, and the matter was submitted for decision on December 18, 2024.

ISSUE

Whether Claimant is eligible for services and supports from SCLARC under the Lanterman Developmental Disabilities Services Act.

EVIDENCE RELIED UPON

Exhibits: SCLARC exhibits 1 through 9; and Claimant's exhibit A.

Testimony: Laurie Brown, Ph.D.; Claimant's cousin; and Claimant.

FACTUAL FINDINGS

Background and Procedural History

1. SCLARC determines eligibility and provides funding for services and supports to persons with developmental disabilities under the Lanterman Developmental Disabilities Services Act (Lanterman Act). (Welf. & Inst. Code, § 4500 et seq.) A "developmental disability" under the Lanterman Act "means 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." (Welf. & Inst. Code, § 4512, subd. (a)(1).) The term "shall include intellectual disability, cerebral palsy, epilepsy, and autism." (*Ibid.*) The 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." (*Ibid.*)

2. Claimant is a 23-year-old woman who lives with her aunt and other relatives. Claimant's mother passed away in 2022, and her father lives out of state. In June 2023, when Claimant was 22 years old, Claimant asked SCLARC to evaluate her for suspected autism spectrum disorder. A service coordinator at SCLARC performed a psychosocial assessment of Claimant and referred her to Jennie M. Mathess, Psy.D., a clinical psychologist, to evaluate her cognitive and adaptive functioning. Dr. Mathess determined Claimant's cognitive functioning is in the low average range, and her adaptive functioning is in the low to moderately low range. In addition, Dr. Mathess determined Claimant met diagnostic criteria for autism spectrum disorder. Dr. Mathess diagnosed Claimant with "Autism spectrum disorder, without accompanying intellectual impairment, without accompanying language impairment." (Exhibit 3, p. A28.) With respect to severity, Dr. Mathess determined Claimant's autism spectrum disorder was "level 1" (i.e., requires support) as to her social communication and restricted, repetitive behaviors. (*Ibid.*) Autism spectrum disorder is divided into three levels of severity; level 1 requires the least amount of support.

3. On December 12, 2023, SCLARC's "interdisciplinary core staff team" met to consider Claimant's eligibility for Lanterman Act services and supports. The team included a clinical psychologist and medical and case management professionals for SCLARC. Upon considering the psychosocial assessment and psychological evaluation of Claimant, the team determined Claimant does not have a developmental disability as defined in the Lanterman Act. Although Dr. Mathess diagnosed Claimant with autism spectrum disorder, the team concluded the condition is "not considered substantially handicapping" and therefore does not constitute a substantial disability for Claimant. (Exhibit 1, p. A7.) The team also determined Claimant is not substantially disabled due to any other condition included within the definition of developmental disability in the Lanterman Act.

4. Based on these findings, SCLARC sent a letter to Claimant on December 14, 2023, notifying her that she is ineligible for services and supports from SCLARC under the Lanterman Act. Claimant appealed the decision and requested an informal meeting and mediation on the appeal. After appealing, Claimant provided SCLARC with additional records from her school-age years, and the interdisciplinary core staff team reviewed Claimant's case again on June 4, 2024. The second review did not change the team's determination that Claimant is ineligible. On June 26, 2024, Claimant and her cousin submitted an Appeal Request Change Form requesting a hearing on the appeal.

5. Claimant subsequently provided SCLARC with additional records from her school-age years, and Lev Gottlieb, Ph.D., a clinical psychologist, assessed Claimant in September and October 2024. Like Dr. Mathess, Dr. Gottlieb found Claimant met the diagnostic criteria for autism spectrum disorder, but he determined Claimant's disorder was "level 2" (i.e., requires substantial support) rather than level 1 due to Claimant's "deficits in social communication, self-direction, capacity for independent living, economic self-sufficiency, and self-care." (Exhibit 4, p. A37.) Furthermore, Dr. Gottlieb found Claimant met additional criteria for secondary depressive and anxiety disorders.

6. The interdisciplinary core staff team reviewed Claimant's case a third time on November 26, 2024, to assess the additional records and Dr. Gottlieb's evaluation. The third review did not change the team's original determination that Claimant is ineligible for services and support from SCLARC under the Lanterman Act. Claimant disagrees with that determination, contending she meets the criteria for eligibility.

///

Hearing Testimony

LAURIE BROWN, PH.D.

7. Laurie Brown, Ph.D., is the lead psychologist consultant at SCLARC. Dr. Brown has a bachelor's degree in psychology, a master's degree in clinical psychology, and a Ph.D. in psychology with a clinical emphasis. Her responsibilities at SCLARC include participation in multi-disciplinary teams, including the interdisciplinary core staff team that determined Claimant is ineligible for services and supports under the Lanterman Act. Dr. Brown also oversees the work of other psychologists for SCLARC, assists with mental health referrals, and assists SCLARC with appeals.

8. Dr. Brown testified that eligibility for Lanterman Act services and supports requires more than just a qualifying condition. Eligibility also requires that the qualifying condition constitute a substantial disability for an individual. Dr. Brown explained that a substantial disability requires the existence of significant functional limitations in three or more of the following areas of major life activity 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; and (G) economic self-sufficiency.

9. Dr. Brown testified Claimant has a qualifying condition (autism spectrum disorder), but she does not evidence significant functional limitations in three or more areas of major life activity as required for eligibility. The interdisciplinary core staff team determined Claimant only had significant functional limitations in the area of self-direction. Therefore, the team concluded Claimant's autism spectrum disorder does not constitute a substantial disability for her.

///

10. In the areas of motor skills, language, and cognitive ability, Claimant's evaluations and records show no substantial deficits. With respect to self-care, Claimant stated during her psychosocial assessment that she can complete self-care tasks by setting reminders on her cell phone to do so. Regarding Claimant's capacity for independent living, she is reportedly able to help with some household chores and take the bus. Regarding economic self-sufficiency, records indicate Claimant was able to work for about two years at McDonald's, and she also worked at a Joann's (a fabric and craft store) briefly before stopping to help care for her mother. Based on this information, the interdisciplinary core staff team did not identify substantial functional limitations in any of these areas.

11. Dr. Brown also testified Claimant's records do not demonstrate signs or symptoms of autism spectrum disorder during the developmental period (i.e., before the age of 18 years). The diagnostic criteria for autism spectrum disorder require the presence of symptoms of the disorder during early development. The interdisciplinary core staff team received and reviewed "an abundance" of school records for Claimant from ages seven to seventeen, and the records do not contain evidence of symptoms of autism spectrum disorder during the developmental period. Instead, the records indicate symptoms of attention deficit hyperactivity disorder (ADHD) and the onset of anxiety and depression as an adolescent, which resulted in several psychiatric hospitalizations and diagnoses of multiple psychiatric disorders. Furthermore, the records suggest Claimant's only substantial adaptive functioning deficit during the developmental period was in the area of self-direction, not in other areas of major life activity.

///

///

CLAIMANT'S COUSIN

12. Claimant's cousin testified Claimant has significant functional limitations in many areas of her life, not just in the area of self-direction. According to Claimant's cousin, Claimant lacks mathematics skills and cannot manage her own finances or money. She struggles to complete paperwork. She cannot drive and has difficulty taking public buses. Claimant cooks minimally but must be supervised, and Claimant forgets to turn appliances off and on. Claimant's cousin does not believe Claimant could live alone because it would be a hazard, and Claimant's decision making is sometimes irrational. Claimant does not know that she sometimes puts herself at risk. Claimant also requires constant prompting with respect to self-care, such as showering and cleaning clothes. Without prompts, the self-care tasks do not happen.

13. With respect to employment, Claimant has not worked for several years. When she worked at McDonald's, she was hospitalized twice due to her being unable to handle getting up to go to work, the social aspect of her job, and other responsibilities and pressures of working and being an adult. According to Claimant's cousin, McDonald's did not fire Claimant only because it recognized she had a mental disability. Furthermore, Claimant's work at Joann's only lasted one or two weeks, and Claimant was let go because she needed extra help that managers were not willing to provide.

14. Claimant's cousin also testified Claimant had significant difficulties with socialization and adaptive functioning during her school years. But Claimant's mother refused to allow appropriate testing of Claimant because Claimant's mother would not accept a permanent diagnosis such as autism spectrum disorder. Claimant's mother would only allow diagnoses that Claimant could outgrow. Claimant's cousin believes Claimant was misdiagnosed with ADHD as a child.

CLAIMANT

15. Claimant testified it has been very difficult for Claimant to learn how to do things on her own as an adult, when her mother did everything for her until she was 18 years old. In addition, Claimant's family has always had issues accepting that Claimant has been diagnosed with various mental health disorders over the years. Claimant's family attributes Claimant's behaviors to her being rude or disrespectful rather than to any mental health disorder. Claimant also testified she has difficulty remembering to do anything, which many of her family members view as her being lazy, unintelligent, or defiant.

Analysis

16. There is no dispute between the parties that Claimant has autism spectrum disorder or that the condition is included within the definition of developmental disability in the Lanterman Act. The only material disputes are whether that condition originated before Claimant turned 18 years old and whether it constitutes a substantial disability for her. SCLARC contends Claimant's school-age records do not reflect symptoms of autism spectrum disorder, and the disorder does not constitute a substantial disability for Claimant. Claimant contends the disorder originated before she turned 18 years old and constitutes a substantial disability for her.

///

///

///

17. The evidence supports a finding that Claimant's autism spectrum disorder originated before she turned 18 years old. Dr. Brown testified that the diagnostic criteria for autism spectrum disorder require the presence of symptoms of the disorder during early development, i.e., during childhood years. Thus, the autism spectrum disorder diagnoses of Drs. Matthes and Gottlieb – which SCLARC does not dispute – necessarily include determinations that the disorder originated before Claimant turned 18 years old. Dr. Gottlieb also determined Claimant's executive and adaptive deficits are "longstanding" and reflective of autism spectrum disorder. (Exhibit 4, p. 37.) This determination makes more sense that SCLARC's contention that Claimant's autism spectrum disorder originated only after she turned 18 years old.

18. Dr. Brown testified Claimant's school-age records do not demonstrate signs or symptoms of autism spectrum disorder before she turned 18 years old. But Claimant was apparently never assessed for autism spectrum disorder during that period, and the records include references to difficulties with learning, attention, and social skills, among other challenges. Claimant was diagnosed with ADHD at a young age, and she was also diagnosed with multiple psychiatric disorders as an adolescent. But these diagnoses and the records do not rule out the origination of Claimant's autism spectrum disorder during her childhood years. If they did, Drs. Matthes and Gottlieb would be unlikely to diagnose Claimant with that disorder just a few years after she turned 18 years old.

19. The evidence also supports a finding that Claimant's autism spectrum disorder constitutes a substantial disability for her. Claimant's cousin persuasively testified that Claimant's functional deficits are not limited to the area of self-direction as SCLARC contends. Claimant also has significant functional limitations in the areas of self-care, capacity for independent living, and economic self-sufficiency. Dr. Gottlieb

also determined Claimant required substantial support in these areas. These significant limitations in various areas of major life activity indicate Claimant's autism spectrum disorder is substantially disabling for her.

LEGAL CONCLUSIONS

1. The Lanterman Act provides services and supports to meet the needs of persons with developmental disabilities, regardless of age or degree of disability. (Welf. & Inst. Code, § 4501.) To be eligible for Lanterman Act services and supports, the developmental disability must "constitute[] a substantial disability for that individual." (Welf. & Inst. Code, § 4512, subd. (a).) "'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." (*Id.*, subd. (j)(1).)

2. SCLARC determined Claimant is not eligible for services and supports under the Lanterman Act because her autism spectrum disorder does not constitute a substantial disability for her. Additionally, SCLARC contends there is no evidence of the disorder originated before Claimant turned 18 years old. Claimant has properly exercised her right to an administrative fair hearing to challenge those determinations. (See Welf. & Inst. Code, §§ 4700-4716.) As an applicant seeking to establish eligibility for government benefits or services, Claimant has the burden of proof. (E.g., *Lindsay v. San Diego County Retirement Bd.* (1964) 231 Cal.App.2d 156, 161; see also *Mason v. Office of Administrative Hearings* (2001) 89 Cal.App.4th 1119, 1136.) This burden requires proof by a preponderance of the evidence because no law or statute

(including the Lanterman Act) provides otherwise. (Evid. Code, § 115 [“Except as otherwise provided by law, the burden of proof requires proof by a preponderance of the evidence.”].) A preponderance of the evidence means “‘evidence that has more convincing force than that opposed to it.’ [Citation.]” (*People ex rel. Brown v. Tri-Union Seafoods, LLC* (2009) 171 Cal.App.4th 1549, 1567.).

3. Claimant has met her burden of proof. She has been diagnosed by two psychologists with autism spectrum disorder, which is one of qualifying conditions for Lanterman Act eligibility. The evidence and the diagnostic criteria for autism spectrum disorder support a finding that the disorder originated before Claimant turned 18 years old. SCLARC presented no evidence or argument to dispute that the disorder can be expected to continue indefinitely. Additionally, the disorder constitutes a substantial disability for Claimant, because she has significant functional limitations in three or more areas of major life activity due to the disorder. (Welf. & Inst. Code, § 4512, subd. (j)(1).) SCLARC concedes Claimant has significant functional limitations in the area of self-direction, and the evidence indicates Claimant also has significant functional limitations in the areas of self-care, capacity for independent living, and economic self-sufficiency.

4. Accordingly, Claimant has a developmental disability as defined in the Lanterman Act (Welf. & Inst. Code, § 4512, subd. (a)(1)), and she is eligible for services and supports from SCLARC.

///

///

///

ORDER

Claimant's appeal is granted. SCLARC's decision denying Claimant's request for services and supports under the Lanterman Act is overturned.

DATE:

THOMAS HELLER

Administrative Law Judge

Office of Administrative Hearings

NOTICE

This is the final administrative decision. Each party is bound by this decision. Either party may request reconsideration pursuant to subdivision (b) of Welfare and Institutions Code section 4713 within 15 days of receiving the decision, or appeal the decision to a court of competent jurisdiction within 180 days of receiving the final decision.