

**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. 2024040589

DDS No. CS0015639

DECISION

Taylor Steinbacher, Administrative Law Judge, Office of Administrative Hearings, State of California, heard this matter in Lancaster, California on August 5, 2024.

Claimant's stepmother (Stepmother) represented Claimant at the fair hearing. Names are omitted to protect the privacy of Claimant and his family.

Stella Dorian, Fair Hearing Representative, represented North Los Angeles County Regional Center (NLACRC).

Oral and documentary evidence was received. The record was closed, and the matter was submitted for decision on August 5, 2024.

ISSUE

Is Claimant eligible for regional center services under the Lanterman Developmental Disabilities Services Act (Lanterman Act) because he has a qualifying developmental disability?

EVIDENCE RELIED UPON

Documents: NLACRC Exhibits 1–15.

Witnesses: for NLACRC – Sandi J. Fischer, Ph.D.; for Claimant – Stepmother.

FACTUAL FINDINGS

Parties and Jurisdiction

1. Claimant is a five-year-old boy who lives with Stepmother in the catchment area served by NLACRC.

2. NLACRC is a regional center designated by the Department of Developmental Services (DDS) to provide funding for services and supports to persons with developmental disabilities under the Lanterman Act. (Welf. & Inst. Code, § 4500 et seq.)

///

3. On September 5, 2023, Stepmother applied for services from NLACRC for Claimant. (Ex. 3.) The application noted that Claimant's qualifying developmental disability was "Conditions Similar to Intellectual Disability," specifically "Developmental Delay (Speech)." (*Id.*, p. A9.)

4. On or about February 15, 2024, NLACRC sent Stepmother a Notice of Action stating Claimant was ineligible for regional center services because he did not meet the criteria for a developmental disability under the Lanterman Act. (Ex. 1, p. A1.)

5. On or about April 10, 2024, Stepmother filed a fair hearing request with NLACRC. (Ex. 1, p. A1.) This hearing ensued.

NLACRC's Evidence

SANDI J. FISCHER, PH.D.

6. Sandi J. Fischer, Ph.D., the Clinical and Intake Manager at NLACRC, testified at the hearing about the requirements for regional center eligibility, the process the NLACRC multidisciplinary committee uses when determining eligibility, and the reasons why NLACRC denied Claimant's request for eligibility. Dr. Fischer has worked for NLACRC since 2011 and has been a licensed psychologist since 1990. (Ex. 2.) Dr. Fischer described the records NLACRC reviewed and NLACRC's assessment of Claimant that led to the denial. Dr. Fischer also testified about the diagnostic criteria for diagnosing autism spectrum disorder (ASD) and intellectual disability (ID), and the circumstances under which a claimant may be eligible to receive regional center services for a disabling condition found to be closely related to ID or to require treatment similar to that required for individuals with ID (Fifth Category eligibility).

///

CLAIMANT'S ASSESSMENTS, EVALUATIONS, AND MEDICAL RECORDS

NLACRC Social Assessment

7. On December 18, 2023, when Claimant was four years old, NLACRC conducted a social assessment of Claimant, with Stepmother as the reporting party. (Ex. 4.) According to the social assessment, the reason for the referral was to "Rule out Autism and Category [Five]." (*Id.*, p. A14.) Stepmother stated Claimant came to be in her care when he was 18 months old; at that time, he was walking and saying words, although the words were unintelligible. (*Ibid.*)

8. At the time of the assessment, Claimant was a student in regular transitional kindergarten. Claimant did not receive special education accommodations at the time, although he does now. Stepmother reported the following about Claimant:

Motor Skills – Claimant can walk, run, jump, climb, and ride a tricycle. He can extend both arms fully, grasp objects with both hands, and usually can hold a pencil appropriately.

Self-Care Skills – Claimant is fully toilet trained, and he can wash his hands, shower, and brush his teeth with prompting. Claimant can get undressed by himself but needs assistance with dressing. Claimant can feed himself using utensils and drink from a regular cup. He is an occasional picky eater. Claimant's safety awareness is age-appropriate, and he will ask for help if he is hurt. He will also attempt to be helpful and will often say "I help!" if he sees Stepmother doing something.

Cognitive Skills - Claimant responds both to his name and his nickname, and will provide his first name when asked. Claimant can receptively identify some

colors and shapes, and he can identify some letters and count to five. He can usually follow routines.

Communication Skills – Claimant is verbal and can speak in phrases and sentences. Claimant can answer questions but has some trouble with conversations as most people have difficulty understanding him. Claimant can follow one-step instructions.

Social/Behavioral Skills - Claimant is very friendly and gets along with peers. He will initiate play and enjoys playing with action figures, cars, and his tablet. Claimant uses toys appropriately and invites others to play with him. Claimant makes good eye contact and is very affectionate and can recognize emotions. If Claimant really wants something, he will plead by putting his hands together, looking at Stepmother, and saying "Please, please."

NLACRC Psychological Assessment

9. On February 6, 2024, when Claimant was four years and 11 months old, Brigitte Travis-Griffin, Psy.D., conducted a psychological assessment of Claimant. Dr. Travis-Griffin is a contractor who performs assessments for NLACRC. Dr. Travis-Griffin administered the Wechsler Preschool and Primary Scale of Intelligence, Fourth Edition (WPPSI) to evaluate Claimant's cognitive functioning, and she administered the Autism Spectrum Disorder Observation-Second Edition (ADOS) and the Autism Diagnostic Review, Revised (ADI-R) to assess whether claimant had ASD. (Ex. 6.)

10. Dr. Fischer explained that the WPPSI involves a series of subtests, each of which requires the subject to perform different tasks to assess certain aspects of the subject's cognitive functioning. For example, in the "Bug Search" subtest, the subject uses an ink dauber to match the requested bug on a page. In the "Cancellation"

subtest, the subject must mark the object that does not belong in a set of images. In the "Picture Memory" subtest, the subject is asked to look at a series of images and then select those same images sometime later. The prompts for these subtests get progressively more complex as the subject provides correct responses.

11. On the WPPSI, Claimant's Full-Scale IQ (FSIQ) score was 75, which is in the Borderline range of intelligence—five percent of the population is likely to have a score at or below Claimant's. (Ex. 6, pp. A23, A27; Ex. 14.) Dr. Travis-Griffin concluded this assessment score shows Claimant does not meet the criteria for ID. (Ex. 6, pp. A23, A27.) Dr. Travis-Griffin cautioned, however, that Claimant should be monitored in the future to assess his cognitive maturation after matriculation to the first grade. (*Id.*, p. A25.)

12. On the ADOS, Claimant received a "Social Affect" score of 2 and a "Restrictive & Repetitive Behaviors" score of 0, for a total score of 2. (Ex. 6, p. A27.) According to Dr. Travis-Griffin, a total score of at least 7 is required to suggest a diagnosis of ASD. (*Id.*, p. A27.) Claimant scored well below that cut-off mark, indicating he did not meet the criteria for an ASD diagnosis. (*Id.*, pp. A24, A27.) Similarly, Claimant's scores on the ADI-R were well below the cut-off mark suggesting a diagnosis of ASD. (*Id.*, p. A27.) This aligned with Stepmother's report that Claimant engages in "age-appropriate independent social and pretend play without persistent conflict, as he typically follows the rules of play expected for his age," which would not be typical for a child with ASD. (*Id.*, p. A24.)

13. During her observation of Claimant, Dr. Travis-Griffin noted Claimant "presented as an easy-going child with a positive [a]ffect" and he "sought adult attention, as well as responded appropriately to praises and other social overtures." (Ex. 6, p. A22.) Despite this, Claimant's "articulation, phonology, and intelligibility skills

were an area of concern . . . as he was minimally verbal,” and Claimant’s receptive language skills “required additional support[.]” (*Ibid.*) But although Claimant’s verbal skills were weak for a child his age, Claimant demonstrated “some ability to use symbolic gestures for unrecited words or images” and he “occasionally responded to pictures to reinforce receptive understanding,” suggesting Claimant understood age-appropriate concepts but had trouble expressing that understanding. (*Id.*, p. A22.)

14. Dr. Travis-Griffin concluded that Claimant did not meet the criteria for a diagnosis of ASD. (Ex. 6, p. A25.) Claimant did not present with autistic traits such as socially restricted, repetitive, idiosyncratic, or stereotypic responses that are required to render an ASD diagnosis. (*Ibid.*) Instead, Dr. Travis-Griffin diagnosed Claimant with Borderline Intellectual Functioning. (*Ibid.*) Dr. Travis-Griffin also diagnosed Claimant with Mixed Receptive-Expressive Language Disorder, due to his speech issues. (*Ibid.*)

15. When describing the psychological assessment, Dr. Fischer testified Dr. Travis-Griffin used the “Gold Standard” of testing, the ADOS and the ADI-R, to determine Claimant does not have ASD. According to Dr. Fischer, Dr. Travis-Griffin’s conclusion that Claimant did not have ASD or ID aligned with Dr. Travis-Griffin’s testing results and observations, and thus were relied upon by the NLACRC multidisciplinary eligibility committee to determine that Claimant was not eligible based on a diagnosis of ASD.

16. Dr. Fischer also testified the NLACRC eligibility committee considered Dr. Travis-Griffin’s assessment in considering whether Claimant had Fifth Category eligibility. Although Claimant’s WPPSI scores showed some borderline or mildly deficient areas of cognitive functioning, Claimant also had several scores in the low average to average range. (See Ex. 6, p. A27.) According to Dr. Fischer, Claimant’s scores and Dr. Travis-Griffin’s assessment show Claimant can make sense of his world

nonverbally, but he has trouble demonstrating that comprehension orally. In Dr. Fischer's opinion, Claimant has serious expressive language and speech issues requiring monitoring and support, but those issues do not establish Fifth Category eligibility. Claimant's relative strengths in non-verbal reasoning also undermined the suggestion Claimant has Fifth Category eligibility. Because of this, NLACRC's multidisciplinary eligibility committee determined Claimant also did not meet the Fifth Category eligibility criteria.

SCHOOL PSYCHO-EDUCATIONAL EVALUATION

17. In February and March 2024, Claimant's school conducted a Multi-Disciplinary Psycho-Educational Evaluation of Claimant to determine whether he was eligible for special education services based on possible diagnoses of autism and speech and language impairment (Ex. 7.) The school drafted a report explaining the results of that evaluation (Psycho-Educational Evaluation), which noted the school's evaluation team had received and was aware of the results of Dr. Travis-Griffin's psychological assessment. However, the Psycho-Educational Evaluation does not discuss Dr. Travis-Griffin's conclusions and diagnoses of Claimant. (*Id.*, p. A31.)

18. Claimant's school psychologist readministered the ADOS to him on February 29, 2024, less than a month after Dr. Travis-Griffin's administration of the same assessment. (Ex. 7, p. A29.) Despite the two assessments occurring so close together, the results of the two tests were markedly different. Whereas Dr. Travis-Griffin gave Claimant a score of 2 in the area of "Social Affect," the school psychologist gave Claimant a score of 15. (*Id.*, p. A45.) And although Dr. Travis-Griffin gave Claimant a score of 0 in the area of "Restricted and Repetitive Behavior," the school psychologist gave Claimant a score of 13. (*Ibid.*) The school psychologist gave Claimant a total

overall score of 27.¹ and concluded he “displays significant behaviors and characteristics associated with [ASD].” (*Ibid.*)

19. Dr. Fischer opined the school psychologist’s ADOS score for Claimant was “outrageous” and “terribly wrong.” According to Dr. Fischer, a total ADOS score of 27 is indicative of a child who is “obviously autistic,” who uses no language whatsoever, has no intent to use language, has no interest in interacting with people, and who spends most of their time engaging in repetitive behaviors.

20. Aside from being markedly different from Dr. Travis-Griffin’s assessment of Claimant, the school psychologist’s ADOS scores were also at odds with Stepmother’s description of Claimant and the school psychologist’s descriptions and observations of Claimant. For example, although Dr. Fischer acknowledged Claimant had speech and language difficulties, Claimant is not non-verbal. He can communicate using single words or one-to-three-word phrases or word approximations, and he can make directed vocalizations to show interest or make his needs known. Indeed, elsewhere the Psycho-Educational Evaluation states Claimant “can be a willing communicator and often uses words and gestures to express himself.” (Ex. 7, p. A51.) According to Dr. Fischer, this shows Claimant has communicative intent inconsistent with an ADOS score of 27. Claimant was also observed to attempt tasks on his own, to ask for help when needed, and to point to ask for an object with a coordinated gaze. Dr. Fischer explained these behaviors are also inconsistent with an ASD diagnosis.

¹ The score of 27 appears to be an error, as the two scores that make up the total add up to 28, not 27. The results also state Claimant’s “Overall Total does not meet the autism cutoff,” but this appears to be a typographical error given that the Psycho-Educational Evaluation concludes Claimant is eligible for special education services due to displaying characteristics of autism.

21. Elsewhere in the Psycho-Educational Evaluation, Claimant was described as engaging in imaginative play on the playground by pretending to be a superhero and using a sports cone as a pretend shield. (*Id.*, p. A33.) Dr. Fischer explained children with autism likely would not engage in this kind of imaginative play. Instead, children with autism would use an object only for its specific purpose and for nothing else. Dr. Fischer also noted the Psycho-Educational Evaluation is inconsistent about whether Claimant uses appropriate eye contact. Although the school psychologist assessed that Claimant did not make appropriate eye contact (*Id.*, pp. A44–A45), elsewhere the Psycho-Educational Evaluation states Claimant “demonstrated appropriate eye contact although occasionally it was fleeting due to distractibility.” (*Id.*, p. A57.) According to Dr. Fischer, this undermines the school psychologist’s ASD diagnosis.

22. Furthermore, Dr. Fisher questioned the school psychologist’s failure to reconcile the school’s ADOS scores with Dr. Travis-Griffin’s scores. According to Dr. Fisher, when a psychologist is aware of other contradictory test results, it is incumbent on the later-testing psychologist to attempt to reconcile or explain the inconsistency. But the Psycho-Educational Evaluation does not mention any such attempt, even though the tests were given just weeks apart.

23. As a result of Claimant’s ADOS scores in the Psycho-Educational Evaluation, Claimant was approved to receive an Individualized Education Program (IEP) from his school with a diagnosis of autism. (Ex. 8.) But even though Claimant’s school provides special education services to Claimant under an IEP for autism, Dr. Fischer explained this does not automatically make Claimant eligible for regional center services too, as eligibility under the Lanterman Act and the Education Code have different requirements.

///

24. In sum, according to Dr. Fischer, NLACRC reviewed and considered the Psycho-Educational Evaluation but found it to be unreliable. As a result, the NLACRC eligibility committee did not change its position that Claimant was ineligible for regional center services based on a diagnosis of ASD.

CLAIMANT'S MEDICAL RECORDS

25. During a medical checkup on October 23, 2023, an "autism screen" of Claimant yielded an "abnormal result." (Ex. 9, p. A89.) The treating medical professional noted a referral was made due to the abnormal result, but no additional medical records suggesting Claimant may have ASD were entered into evidence.

26. Dr. Fischer explained that autism screening measures are designed to be overinclusive so that children with autism are diagnosed as early as possible. But she added that a screening measure is insufficient to diagnose a child with ASD and that more rigorous assessments such as the ADOS are required.

Claimant's Evidence

27. Stepmother testified at the hearing. In her hearing testimony, Stepmother alleged Dr. Travis-Griffin did not conduct the "Picture Memory," "Bug Search," and "Cancellation" subtests when performing the WPPSI. Based on Dr. Travis-Griffin's alleged failure to conduct these subtests, Stepmother disputed the results of Dr. Travis-Griffin's assessment of Claimant.

28. In response to Stepmother's testimony, Dr. Fischer testified the allegedly skipped subtests may happen quickly such that a layperson may not recognize they have occurred. The subtests can be especially quick if the subject does not provide correct answers leading to more complex questions; fewer questions answered

correctly will result in a low score. Claimant's scores on these three subtests were in the low average or borderline range, suggesting these subtests would have been administered quickly. According to Dr. Fischer, even assuming those tests had not occurred, and those results were excluded from Claimant's scores on the WPPSI, the removal of those scores would increase Claimant's FSIQ score from 75 to somewhere in the 80s. In other words, removing those results would undermine—rather than support—the suggestion Claimant was eligible under Fifth Category eligibility, according to Dr. Fischer.

29. Stepmother also testified Claimant now receives special education services and is enrolled in a different school than he was before. Claimant also now receives speech therapy from his school.

LEGAL CONCLUSIONS

Jurisdiction

1. The Lanterman Act governs this case. (Welf. & Inst. Code § 4500 et seq.; all further undesignated statutory references are to the Welfare and Institutions Code.) The Legislature enacted the Lanterman Act to provide a pattern of facilities and services sufficiently complete to meet the needs of each person with developmental disabilities, regardless of age or degree of handicap, and at each stage of life. The purpose of the statutory scheme is twofold: To prevent or minimize the institutionalization of developmentally disabled persons and their dislocation from family and community, and to enable them to approximate the pattern of everyday living of nondisabled persons of the same age and to lead more independent and

productive lives in the community. (*Assn. for Retarded Citizens v. Dept. of Developmental Services* (1985) 38 Cal.3d 384, 388.)

2. DDS is the state agency charged with implementing the Lanterman Act; DDS, in turn, may contract with private, non-profit community agencies called “regional centers” to provide developmentally disabled persons with access to the services and supports best suited to them throughout their lifetime. (§§ 4416, 4620.)

3. Under the Lanterman Act, an administrative proceeding, also known as a “fair hearing,” is available to determine the rights and obligations of the parties, including regional center decisions to which the claimant disagrees. (§§ 4700–4717.) Claimant timely requested a fair hearing, and jurisdiction for this case was established. (Factual Findings 1–5.)

Standard and Burden of Proof

4. The party asserting a condition that would make the individual eligible for a benefit or service has the burden of proof to establish he or she has the condition. (*Lindsay v. San Diego County Retirement Bd.* (1964) 231 Cal.App.2d 156, 160–161.) Here, Claimant bears the burden of proving by a preponderance of the evidence that he has a developmental disability as defined by the Lanterman Act and is eligible for regional center services. (Evid. Code, § 115.) This standard is met when the party bearing the burden of proof presents evidence that has more convincing force than that opposed to it. (*People ex rel. Brown v. Tri-Union Seafoods, LLC* (2009) 171 Cal.App.4th 1549, 1567.)

///

///

Lanterman Act Eligibility Requirements

5. Section 4501 outlines the state's responsibility for persons with developmental disabilities and the state's duty to establish services for those individuals. A person must have a developmental disability that is substantially disabling, as defined by the Lanterman Act and its implementing regulations, to be eligible for regional center services. (*Ronald F. v. State Dept. of Developmental Services* (2017) 8 Cal.App.5th 84, 94–95.)

6. A developmental disability is a disability that originates before an individual turns 18 years old and is expected to continue indefinitely. Developmental disabilities are limited to the specific conditions of autism, cerebral palsy, epilepsy, ID, or a disabling condition found to be closely related to ID or to require treatment similar to that required for an individual with ID. (§ 4512, subd. (a).) Developmental disabilities do not include other handicapping conditions that are solely physical in nature, or which are solely psychiatric disorders or learning disabilities. (*Ibid.*; Cal. Code Regs., tit. 17, § 54000.)

7. Along with the requirements listed above, the condition must also constitute a substantial disability for the individual. (§ 4512, subd. (a)(1).) In this context, "substantial disability" means:

(1) A condition which results in major impairment of cognitive and/or social functioning, representing sufficient impairment to require interdisciplinary planning and coordination of special or generic services to assist the individual in achieving maximum potential; and

(2) The existence of significant functional limitations, as determined by the regional center, in three or more of the following areas of major life activity, as appropriate to the person's age: (A) Receptive and expressive language; (B) Learning; (C) Self-care; (D) Mobility; (E) Self-direction; (F) Capacity for independent living; (G) Economic self-sufficiency.

(Cal. Code Regs., tit. 17, § 54001, subd. (a).)

8. Section 4643, subdivision (b), provides:

In determining if an individual meets the definition of developmental disability contained in subdivision (a) of Section 4512, the regional center may consider evaluations and tests, including but not limited to, intelligence tests, adaptive functioning tests, neurological and neuropsychological tests, diagnostic tests performed by a physician, psychiatric tests, and other tests or evaluations that have been performed by, and are available from, other sources.

9. It is undisputed that Claimant does not suffer from the developmental disabilities of cerebral palsy, epilepsy, or ID. Accordingly, the legal analysis of eligibility is limited the developmental disability of autism and Fifth Category eligibility.

///

///

Diagnosing Autism Spectrum Disorder

10. The Diagnostic and Statistical Manual of Mental Disorders (DSM) “is a classification of mental disorders that was developed for use in clinical, educational, and research settings[.]” (*In re N.R.* (2023) 15 Cal.5th 520, 541.) The “primary purpose” of the DSM “is to assist trained clinicians in the diagnosis of mental disorders as part of a case formulation assessment that leads to an informed treatment plan for each individual.” (*Ibid.*)

11. According to the most recent version of the DSM, the DSM-5-TR, the diagnostic criteria for ASD consists of two parts. The first set of criteria, Part A, requires persistent deficits in social communication and social interaction across multiple contexts, as manifested by all the following: (1) deficits in social-emotional reciprocity; (2) deficits in nonverbal communicative behaviors used for social interaction; and (3) deficits in developing, maintaining and understanding relationships. The second set of criteria, Part B, requires restrictive, repetitive patterns of behavior, interests, or activities, as manifested by at least two of the following: (1) stereotyped or repetitive motor movements, use of objects, or speech; (2) insistence of sameness, inflexible adherence to routines, or ritualized patterns of verbal or nonverbal behaviors; (3) highly restricted, fixated interests that are abnormal in intensity or focus; and (4) hyper- or hypo-reactivity to sensory input or unusual interest in sensory aspects of the environment. (Ex. 12, pp. A97–A98.)

Fifth Category Eligibility

12. The Lanterman Act’s “fifth category” of eligibility, which makes eligible individuals with “disabling conditions found to be closely related to [ID] or to require treatment similar to that required for [individuals with ID],” is not defined in the DSM.

(§ 4512, subd. (a); *see Mason v. Office of Administrative Hearings* (2001) 89 Cal.App.4th 1119, 1129 (*Mason*)). In March 2002, in response to *Mason*, the Association of Regional Center Agencies approved the Guidelines for Determining 5th Category Eligibility for the California Regional Centers (ARCA Guidelines). (Ex. 15.) These Guidelines list the following factors to be considered when determining Fifth Category eligibility: whether the individual functions in a manner similar to that of a person with ID; whether the individual requires treatment similar to that required by an individual who has ID; whether the individual is substantially handicapped; and whether the disability originated before the individual was 18 years old and is it likely to continue indefinitely.

13. According to the ARCA Guidelines, an individual functions in a manner similar to that of a person with ID if their general intellectual functioning is in the low borderline range of intelligence as shown by IQ scores in the range of 70 to 74. (Ex. 15, p. A125.) The higher an individual's IQ score is above 70, then the less similar to a person with ID the individual is likely to appear, and it becomes increasingly essential for the individual to also demonstrate substantial adaptive deficits related to cognitive limitations. (*Ibid.*) Moreover, the ARCA Guidelines state that where a person's IQ is in the 70 to 74 range, but there is a significant difference in specific cognitive skill scores, it is more difficult to describe the individual's intellectual functioning as being similar to that of a person with ID. (*Ibid.*) The ARCA Guidelines also state Fifth Category eligibility for young children should be viewed with "great caution" because they may not consistently demonstrate the borderline intellectual functioning necessary. (*Ibid.*) In addition to the above considerations regarding IQ scores, the ARCA Guidelines note that, in addition to sub-average intellectual functioning, the person must also demonstrate significant adaptive deficits, such as in the areas of communication,

learning, self-care, mobility, self-direction, capacity for independent living, and economic self-sufficiency. (*Id.*, p. A126.)

Evaluation of Evidence

ELIGIBILITY UNDER DIAGNOSIS OF ASD

14. Although Claimant's school considers him eligible for special education services based on a diagnosis of autism, Dr. Fischer provided persuasive testimony that the school's diagnosis was unreliable. The ADOS scores rendered in the school's Psycho-Educational Evaluation would suggest Claimant is non-verbal and is obviously autistic, but such a finding is at odds with Stepmother's reporting, Dr. Travis-Griffin's report and observations, and other observations of Claimant in the Psycho-Educational Evaluation. On the other hand, and as explained by Dr. Fischer, Dr. Travis-Griffin's findings that Claimant does not have ASD are well-supported by Stepmother and Dr. Travis-Griffin's observations of Claimant. And though Claimant's school is providing him with special education services based on a diagnosis of autism, and Claimant's medical care provider's screening for autism provided an abnormal result, neither of these is sufficient on their own to find Claimant has a qualifying diagnosis of ASD such that he is eligible for regional center services.

FIFTH CATEGORY ELIGIBILITY

15. Dr. Travis-Griffin's cognitive assessments of Claimant do not suggest he has ID at this time. The evidence also did not establish Claimant functions in a manner similar to that of a person with ID to suggest he has Fifth Category eligibility. Claimant's FSIQ falls just outside the range suggested in the ARCA Guidelines as presumptively demonstrating eligibility. And even assuming Stepmother was correct that Dr. Travis-Griffin failed to conduct the Bug Search, Cancellation, and Picture

Memory subtests on the WPPSI, elimination of those scores from Claimant's WPPSI results would result in a higher FSIQ, further undermining the suggestion that Claimant has Fifth Category eligibility. Claimant's relative strengths in non-verbal reasoning further undermined the suggestion he has Fifth Category eligibility. Claimant also did not provide sufficient evidence of significant adaptive deficits showing that he functions in a manner similar to that of a person with ID.

16. Moreover, the evidence did not establish Claimant requires treatment similar to that required for individuals with ID. Indeed, there was little evidence proffered about what kind of treatment Claimant requires, other than that he currently receives special education services and speech therapy.

17. Accordingly, Claimant failed to meet his burden to demonstrate that he has a qualifying diagnosis of ASD or is eligible for regional center services under Fifth Category eligibility.

Conclusion

18. The evidence indicates Claimant has serious expressive language and speech issues that require further monitoring and support. But on this record, Claimant did not prove he has a developmental disability as defined by the Lanterman Act that makes him eligible for regional center services.

///

///

///

///

ORDER

Claimant's appeal is denied.

DATE:

TAYLOR STEINBACHER

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 a 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.