

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

**In the Matter of:**

**CLAIMANT,**

**v.**

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

**DDS No. CS0016167**

**OAH No. 2024050101**

**DECISION**

Administrative Law Judge Michael C. Starkey, State of California, Office of Administrative Hearings, heard this matter on August 16, 2024, in San Jose, California.

Claimant's mother and stepfather (parents) appeared for claimant at the hearing. He 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 August 16, 2024.

## **ISSUE**

Is claimant eligible under the Lanterman Developmental Disabilities Services Act (the Lanterman Act, Welf. & Inst. Code, § 4500 et seq.) for services from SARC? SARC concedes that claimant has autism spectrum disorder (ASD), an eligible condition. The disputed issue is whether claimant is substantially disabled by this condition.

## **FACTUAL FINDINGS**

1. Claimant is almost 26 years old. He lives with his parents and one older half-sibling.
2. Claimant's parents report this older sibling, and another sibling who does not live with claimant, have both been diagnosed with bipolar disorder. They report no other family history of mental health conditions, medical conditions, or developmental disabilities.
3. Claimant's mother noticed a difference in his development at 18 months. She reports that he had a seizure at this time after receiving vaccinations.
4. When claimant started school, his teachers reported hyperactivity and elopement. Claimant was obsessed with "Transformers" (a media franchise based on fictional robots). He received significant special education services under the categories of autism and "Speech or Language Impairment." He had another seizure in eighth grade, but testing was inconclusive. He graduated high school in 2017.
5. Claimant is an unconserved adult. He takes allergy medications but is in good overall health. It is undisputed that his motor skills are adequate.

6. Claimant has held several jobs. He applied for these jobs on his own, but his parents helped him with the applications. He interviewed for the jobs on his own.

7. Currently, claimant works 16 hours per week as a warehouse associate at a large home improvement store. Claimant has never had a driver's license, but he navigates a 20-minute commute to and from work on his own. Claimant has worked at this job for more than three years.

8. On November 29, 2023, claimant and his mother met with SARC clinical psychologist Brenda Hart, Ph.D., and intake coordinator Leticia Randazzo.

9. In an Intake Social Assessment report dated January 25, 2024, Randazzo reported that during this interview, claimant was "observed to make eye contact with interviewers when addressed . . . [and] was able to answer questions and provide interviewers with information." Randazzo also reported that:

[Claimant] is independent with all his self-care tasks. He can dress/undress, bathe/shower, brush teeth, toilet, and eat independently. Some tasks like [brushing his] teeth require parent reminders. [Claimant] can follow simple recipes and cook for himself. He can use the stove, oven and microwave. [Claimant] is responsible for keeping his room clean and tidy and for doing his laundry. This requires some parent reminders sometimes to initiate. [Claimant] is reported to be forgetful sometimes, he may leave home and not lock the door. He is okay with making purchases with cash. [Claimant] does not have a driver's license and reports he is not interested in obtaining one. He uses public

transportation or his electric bike for transportation.

[Claimant] can make and receive phone calls. [Claimant] can stay home on his own without adult supervision.

Randazzo further reported that claimant reported that previous jobs had not worked out because of "certain social dynamics."

10. Randazzo reported that:

[Claimant's] communication is described as "almost fluent but has challenges with expressing his needs and wants" by his mother. [Claimant] answered all questions asked by the interviewers. He answered questions just fine and had reciprocal conversation. He added his thoughts and opinions when appropriate. His receptive and expressive language skills were observed to be appropriate for his age. There was some eye contact.

¶ . . . ¶

[Claimant] is described as keeping to himself most of the time. If he is approached, he will engage and continue interaction if it is on a topic that interests him. [Claimant] shared that he had a close friend when he was 12 years old. His mother shares [that claimant] can be withdrawn, overactive, but also cooperative and can relate well with others. [Claimant] and his mother shared that he becomes upset when people do not listen to him or follow rules at work. As a child, it is reported that transitions were very

difficult and continue to be a very challenging part of life for [claimant]. His mother reports that "he has had outbursts at work."

11. On March 22, 2024, based on this same November 29, 2023, interview, as well as psychological testing and a review of medical and school records, Dr. Hart issued a Confidential Eligibility Determination Report.

12. Dr. Hart opined that claimant and his mother seemed forthright during the intake interview. She further reported:

[Claimant] presented as a clean and casually dressed young person with medium-length brown hair, brown eyes framed in prescription glasses, and light skin. He wore a surgical mask. He appeared of average height and weight. He was alert, attentive, and cooperative for the duration of the evaluation. [Claimant] fidgeted with his hands at times. He demonstrated appropriate hand gestures and eye contact that were coordinated with speech. He seemed to understand all questions posed without needing clarification or questions reduced to simpler language. [Claimant] spoke in full sentences that were easily understood. He spoke at a normal rate and volume with appropriate inflections. Content of speech was logical, relevant and coherent. [Claimant] was able to have a reciprocal conversation. He did not demonstrate any atypical speech patterns that significantly impaired his ability to communicate with this Examiner. Upon being

greeted by this Examiner, he did reciprocate the greeting, but he did not introduce himself at first and needed to be asked his name, and then he did provide it.

[Claimant] was oriented to person, place, time, and situation. He demonstrated intact episodic memory. When asked what he did for his last birthday, he stated that he went out for [r]amen with family and friends. [Claimant] was able to do simple, mental money math. He demonstrated adequate verbal, abstract reasoning when asked how two things are similar. He also demonstrated good [judgment] when asked to problem solve through novel, urgent, hypothetical situations. For example, when asked what he would do if while walking by a lake, he noticed a two year-old child playing alone at the end of a pier, he replied that he would ask the child if he needs help or if the child is with anyone, call a nearby official about the lost child and stay by the child until he is picked up by the official or his parents. [Claimant] was also asked about more common emergencies such as a fire in the home. Though he stated that he would use a fire extinguisher, he was unable to state where the fire extinguisher is in his home currently, evidenced by his mother stating that it is in the pantry and that [Claimant] walks by it daily. When asked what he would do if using the fire extinguisher or water did not put out the fire, he replied that he would call the fire department by dialing 911.

When discussing his social life and communication, [claimant] stated that he will communicate if the topic interests him. His mother reported that dating back to early childhood, he only wanted to talk about his current interests, and that he can come across as aggressive when passionate about something he is saying. [Claimant] acknowledged that he will keep to himself unless he is approached. [Claimant's] mother reported that [he] is not good at eye contact and that it is difficult for him to interpret others' nonverbal communication. [Claimant] reportedly has a few friends now. His mother reported that he was 12 years old before having a close friend and that this friend was also on the spectrum. She further reported that he typically did his own thing when around peers as a child.

[Claimant's] mother reported that he demonstrated idiosyncratic speech in early childhood. She reported that [he] tends to have very black and white thinking and that it is very difficult for him to think outside of the box. She added that he has always had difficulty with unexpected changes. [Claimant's] mother reported that he goes through periods of being intensely interested in something. For example, for a while he memorized movies and wanted others to also say the scripting with him. He also went through a period wherein he was very into costumes and "lived in them." His mother reported that [claimant] has

sensitivity to certain clothing textures. [Claimant] added that he used to be sensitive to sounds, but that he has been better able to tolerate sounds over time.

When asked what type of employment he would like to become involved in, [claimant] said that he did not know yet, but that he had applied for a substitute custodial position at the school district where he previously worked and got the position. He stated that he did not like it before because he had a personality clash with his trainer, but that he is hopeful it will work out this time. He stated that his stepfather helped him by showing him the website and by helping him get the application pieces together. When discussing his previous employment at Target, he stated that he hated it because his manager was "always on [his] back for being too slow." [Claimant] reported that he is currently also employed part-time as a warehouse associate at Home Depot. He stated that he applied for the job himself without anyone's help and that he was interviewed briefly before being hired and started training for the job the next day. [Claimant's] mother reported that [he] has had some outbursts at work, but that he has not been written up. [Claimant] explained that he gets angry at other employees sometimes because they do not cooperate or listen to him or his advice. He explained that he tries to advise his coworkers to follow the rules, but sometimes



they do not listen. [Claimant's] mother added that [his] way of expressing these things can come across as hostile.

13. Regarding claimant's special education records, Dr. Hart reported that claimant's:

12th grade Individualized Education Program report indicates that [claimant] continued to have difficulties with: understanding what topics and speaking style are appropriate for various settings; topic maintenance and topic transitions in conversation; speaking out of context; understanding inferences; dominating conversations, and; being inconsistent in his work habits. He is described with abilities and/or qualities in the following areas: showing improvement in completing assignments and submitting them in a timely manner; benefitting from use of computer/tablet; age-appropriate adaptive and daily living skills; willingness to engage with therapist and peers during speech and language services; asking good conversational questions and stating opinions; treating others with respect in personal interactions; verbally articulating his thoughts on literature; good verbal and reading fluency; participating in class discussions; performing well in debates, and; being very helpful.

14. Dr. Hart opined that claimant:

has been previously diagnosed with Pervasive Developmental Disorder, a diagnosis reflecting previous nomenclature for a developmental disorder that did not quite meet the full diagnostic criteria for Autistic Disorder. Since that time the autism diagnostic criteria has broadened, and he currently meets the diagnostic criteria for Autism Spectrum Disorder according to the DSM-5-TR.<sup>1</sup> Given current assessment, observation, interview and records review, it appears that [claimant] continues to struggle with social communication, perspective taking and social judgements, and that these impairments affect his performance at employment that involves social interaction and other areas in his life. As such, [claimant] appears to have substantial impairments in **self-direction**, which is an area of functioning that involves the ability to make and apply personal and social [judgments] and decisions. [Claimant] appears otherwise functioning at a level that does not meet the criteria set forth by the Lanterman Act in any of the following areas of functioning . . .

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<sup>1</sup> The Diagnostic and Statistical Manual of Mental Disorders, Fifth Edition, Text Revision (DSM-5-TR) was published by the American Psychiatric Association in March 2022. It currently serves as the principal authority for psychological and psychiatric diagnoses in the United States.

**Self-Care:** [Claimant] and his parent reported during the interview that he is independent in all self-care tasks, and this is consistent with school records.

**Expressive and Receptive Language:** [Claimant] demonstrated appropriate hand gestures and eye contact that were coordinated with speech. He seemed to understand all questions posed without needing clarification or questions reduced to simpler language. [Claimant] spoke in full sentences that were easily understood. He spoke at a normal rate and volume with appropriate inflections. Content of speech was logical, relevant and coherent. [Claimant] was able to have a reciprocal conversation. He did not demonstrate any atypical speech patterns that significantly impaired his ability to communicate with this Examiner. As mentioned above, his social judgement deficits and difficulties with perspective taking interfere with his delivery of social communication at times – however, this is rooted in his self-direction impairments, rather than language impairments, per [se].

**Learning:** With appropriate supports and accommodations, [claimant] was able to graduate from high school with a diploma. School records indicate that though he required some support around completing his classwork on time, the benefit of a computer and/or tablet significantly improved

this area of need for him. He has been able to learn and perform his work tasks at Home Depot. He has been told by a trainer and employer that he was slow and appears to require additional support, time, or other resources while training in new work tasks and this is consistent with processing speed ability results from previous testing.

**Independent Living Skills:** [Claimant] can follow recipes and cook for himself. He can use the stove, oven and microwave. He is responsible for the upkeep of his own room and he does his own laundry. He can make his own purchases. He uses public transportation and his electric bicycle. He can make and receive phone calls. He demonstrated adequate judgement for hypothetical, urgent situations. He reportedly is able to stay home on his own without supervision.

**Economic Self-Sufficiency:** [Claimant] applied and interviewed for his current job at Home Depot on his own. He was able to learn his job tasks and perform at work without being written up, despite being told by his employer that he was performing too slowly. [Claimant] has yet to have the opportunity to work full-time at a job that he very much enjoys and seems to be a good match for his skills and social functioning. As mentioned above, self-direction impairments appear to interfere with work functioning when it comes to social relations/judgements.

He has also never lived on his own to fully support himself. It is premature at this point to assume that he would not succeed at this with the amount of support that a young adult is typically offered by family and community within his socio-economic environment.

**Motor:** [Claimant] is able to walk, run, and navigate stairs adequately and independently.

At the current time, there is insufficient evidence to suggest that [Claimant's] developmental condition is substantially disabling at a level required by the [Lanterman] Act. As such, he does not meet eligibility criteria for services at SARC.

(Emphasis in original.)

15. On July 23, 2024, Dr. Hart reviewed her previous report, re-interviewed claimant "to further assess independent living skills, capacity for financial independence, and self-direction," and issued an addendum report. Claimant called Dr. Hart to schedule the meeting, and again to reschedule it. He used his electric bicycle to get to the meeting and arrived early.

16. In her report, Dr. Hart describes in great detail claimant's responses to a variety of questions about his functional capacity. Notably, Dr. Hart reports that claimant stated the following about his independent living skills:

[Claimant] stated that he can navigate around the community independently on his electric bike, light rail, or

with Uber at all hours safely, and that he can be left overnight without supervision. He knows the traffic laws while riding his electric bike and he passed the written automobile driving test after a few attempts. He stated that he taught himself the light rail navigation and scheduling by looking it up online. As reported earlier in this report, [Claimant] and his group of friends went on an overnight trip to Santa Cruz and [claimant] arranged the hotel stay for everyone. He also took a road trip to Las Vegas with his friends for four days.

17. Regarding his capacity for financial independence, claimant reported that he decided not to attend college because it might not be not a good fit for him, but also because he began developing anxieties and fears about failing classes or "acquiring too much debt." He reported that his grandmother left him some money and he spend about \$2,000 of it, but his parents do not let him know the total amount left to him.

18. Claimant told Dr. Hart that he has trained to be a school custodian, and is currently on-call for such work, although he would ultimately prefer to work full-time in a warehouse (but not for his current employer). He also reported that he worked three seasons at an amusement park, including handling cash. Dr. Hart reported that claimant "stated that he can self-advocate when problems arise with pay, wages, benefits, or interpersonal challenges and communicate his needs at Home Depot, but that for the school district job, he tends to ask his mother because she works for the same school district."

19. Dr. Hart reported that:

[Claimant admitted that] sometimes he “feels the urge to splurge” and that he is “not really a saver.” He admitted that he did overdraw his bank account within the past year, and his mother received an email alert about it and took care of it. He stated that he is not proud of that and tries to avoid doing that now. [Claimant] stated that he set up autopay to automatically pay his bills for his phone and for several subscriptions. He reported that he uses PayPal to pay his parents towards rent, groceries, and medical insurance.

20. Dr. Hart again concluded that claimant is not sufficiently impaired to qualify for regional center services. She opined that:

Results of [this July 23, 2024] evaluation continue to indicate that [claimant] has substantial impairment in self-direction (e.g., motivation, social judgement deficits, and difficulties with perspective taking), and that this impairment can interfere with home and work life; however, there continues to be insufficient evidence to suggest substantial impairments in independent living skills and capacity for financial independence apart from what is accounted for by his impairment in self-direction. The current evaluation supports the conclusion that [claimant] is not functioning at a level required by the Lanterman Act for regional center eligibility.

## **TESTIMONY OF CLAIMANT'S PARENTS**

21. Claimant's parents testified at hearing. Their testimony appeared sincere, was consistent with other evidence, and was credible in all respects.

22. Claimant's stepfather has known claimant since claimant was approximately eight years old. He reports that claimant has struggled with "many everyday things that we all learn or should learn as we age." He reports that claimant struggles with tasks around the house, and "keeping up" his personal living space. He feels that claimant still needs the type of support he received from special education. For example, approximately 70 percent of the time, claimant has to be reminded to leave on time for work and to take a lunch with him. Claimant is often late for work, although he told his stepfather he has not been written up for it.

23. Claimant's stepfather also reports that claimant's personal hygiene (brushing teeth and bathing) are "hit or miss" on a day to day basis, but claimant is very good on this measure at critical times, like when he has a job interview. Claimant's stepfather reports that claimant is not very motivated to seek opportunities, for example, employment opportunities which "almost have to fall into his lap" or come from a referral by a friend. He also notes that claimant's inability to drive limits his opportunities. Claimant's parents did not address claimant's report to Dr. Hart that he recently received a driving learner's permit, but testified that claimant had decided not to get a driver's license due to safety concerns.

24. Claimant's stepfather reports that claimant does not like the stigma of autism and tries "to hide it a little bit." He is concerned that claimant tried to provide information to SARC that made him seem more functional than he really is.



25. Claimant's mother reports that claimant missed the first meeting he scheduled with Dr. Hart and claimant's mother had to prompt claimant to notify his employer about both meetings. She echoed the reports of claimant's stepfather that claimant struggles with time management and making appointments.

26. Claimant's mother does not regard him as financially independent. She reports that he has a bank account and debit card, but the account is linked to hers and she gets notices when his account balance drops below \$100, which is once or twice a month, even when he has bills to pay. She reports he is impulsive with money and recently was unable to pay the full amount of rent his parents charge him. She reports that if he is made responsible to do his own grocery shopping, he and his older brother will instead use a delivery service.

27. Regarding communication, claimant's mother reports that he has a hard time expressing himself, and if he gets frustrated, can "blow up" and then later calm down and apologize. He is very blunt and cannot read cues from people showing that they are uncomfortable. He has had conflicts with peers at work.

28. Claimant's parents are scared that he will not be able to care for himself when they no longer can provide support. They want services from SARC to help him learn to be truly independent. Based on his current level of functioning, they sincerely believe that claimant is eligible for regional center services.

## **ULTIMATE FINDINGS**

29. It is undisputed that claimant has ASD, an eligible condition. The parties agree that he has a significant functional limitation in the area of self-direction. Nevertheless, it was not proven that, compared to other 25-year-olds, claimant has a significant functional limitation in the areas of self-care, receptive and expressive

language, learning, mobility, capacity for independent living, or economic self-sufficiency. The evidence shows that he has the ability to function in each of these areas at a level that does not seem substantially below the expected range for individuals his age. The concerns of claimant's parents are understandable. But on this record, it cannot be found that claimant is substantially disabled by his ASD.

## **LEGAL CONCLUSIONS**

1. To establish eligibility for SARC's services under the Lanterman Act, claimant has the burden of proving by a preponderance of the evidence that (1) he suffers from a developmental disability and (2) he is substantially disabled by that developmental disability. (Welf. & Inst. Code, §§ 4501, 4512, subd. (a).)

2. Conditions that qualify under the Lanterman Act as "developmental disabilities" include "intellectual disability, cerebral palsy, epilepsy, and autism." (Welf. & Inst. Code, § 4512, subd. (a).) They 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." (*Ibid.*) In any case, the "developmental disability" must originate before the age of 18 years and must be lifelong. (*Ibid.*)

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, 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." (Welf. & Inst. Code, § 4512, subds. (a), (1)(1); see also Cal. Code Regs., tit. 17, § 54001, subd. (a)(2).)

4. Claimant has ASD, an eligible condition. (Factual Finding 29.) However, the evidence does not show that claimant meets the statutory criteria for substantial disability. Accordingly, claimant has not established eligibility for services under the Lanterman Act from SARC.

## **ORDER**

Claimant's appeal is denied. He has not established his eligibility under the Lanterman Act for services from SARC.

DATE:

MICHAEL C. STARKEY

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.