BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

CLAIMANT

and

NORTH LOS ANGELES COUNTY REGIONAL CENTER,

Service Agency.

DDS No. CS0016668

OAH No. 2024050493

DECISION

Jennifer M. Russell, Senior Administrative Law Judge, Office of Administrative Hearings, State of California, heard this matter by videoconference on December 10, 2024. Stella Dorian, Due Process Officer, represented North Los Angeles County Regional Center (NLACRC or service agency). Mother represented Claimant, who was not present at the hearing. To preserve privacy and confidentiality neither Mother nor Claimant is referenced by name.

The service agency's expert witness, Heike Ballmaier, Psy.D., and Mother testified. Documents identified as Exhibit 1 through Exhibit 26 were admitted in

evidence. The record closed, and the matter was submitted for decision at the conclusion of the hearing.

ISSUE FOR DETERMINATION

Whether Claimant is eligible for regional center services and supports under the qualifying category of "autism" as provided for in the Lanterman Developmental Disabilities Services Act (Lanterman Act), Welfare and Institutions Code section 4500 et seq.

FACTUAL FINDINGS

Jurisdictional Matters

1. By Notice of Proposed Action dated March 27 2024, NLACRC informed Mother it completed its assessment process to determine Claimant's eligibility to receive services under the Lanterman Act and determined Claimant is not eligible for services under the Lanterman Act.

2. On May 8, 2024, Mother, acting on Claimant's behalf, appealed NLACRC's ineligibility decision.

3. All jurisdictional requirements are satisfied.

Claimant's Background

4. Claimant is a nine-year-old male. Claimant resides with his mother, father, and siblings.

5. On July 7, 2022, Los Angeles County Department of Children and Family Services (DCFS) referred Claimant to NLACRC for evaluation and assessment to determine whether he presents with autism. At the time of referral, Claimant was six years old.

NLACRC's Evaluations and Assessments of Claimant

6. Heike Ballmaier, Psy.D., is the Senior Clinical Psychologist at NLACRC with responsibilities for, among other things, supervising staff psychologists, intake case managers, and other service agency staff. Dr. Ballmaier serves on NLACRC's interdisciplinary team conducting eligibility evaluations and assessments. At the administrative hearing, Dr. Ballmaier explained the eligibility categories and substantial disability requirements set forth in the Lanterman Act and its regulations. She explained the NLACRC Interdisciplinary Eligibility Committee consults diagnostic criteria and identifying characteristics of Autism Spectrum Disorder (ASD) and Intellectual Disability (ID) in the Diagnostic and Statistical Manual of Mental Disorders, Fifth Edition, Text Revision (DSM-5-TR) to determine eligibility for services and supports under the Lanterman Act's qualifying categories of "autism" and "intellectual disability."

7. Relevant excerpts from the DSM-5 were admitted in evidence as Exhibit 23 and Exhibit 24. The DMS-5-TR sets forth diagnostic criteria for ASD as follows:

> A. Persistent deficits in social communication and social interaction across multiple contexts, as manifested by the following, currently or by history:
>
> 1. Deficits in social-emotional reciprocity, ranging, for example, from abnormal social approach and failure

of normal back-and-forth conversation; to reduced sharing of interests, emotions, or affect; to failure to initiate or respond to social interactions.

2. Deficits in nonverbal communicative behaviors used for social interaction, ranging, for example, from poorly integrated verbal and nonverbal communication; to abnormalities in eye contact and body language or deficits in understanding and use of gestures; to a total lack of facial expressions and nonverbal communication.

3. Deficits in developing, maintaining, and understanding relationships, ranging, for example, from difficulties adjusting behavior to suit various social contexts; to difficulties in sharing imaginative play or in making friends; to absence of interest in peers.

B. Restricted, repetitive patterns of behavior, interests, or activities, as manifested by at least two of the following, currently or by history:

1. Stereotyped or repetitive motor movements, use of objects, or speech (e.g., simple motor stereotypies, lining up toys or flipping objects, echolalia, idiosyncratic phrases).

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2. Insistence on sameness, inflexible adherence to routines, or ritualized patterns of verbal or nonverbal behavior (e.g., extreme distress at small changes, difficulties with transitions, rigid thinking patterns, greeting rituals, need to take same route or eat same food every day).

3. Highly restricted, fixated interests that are abnormal in intensity or focus (e.g., strong attachment to or preoccupation with unusual objects, excessively circumscribed or perseverative interests).

4. Hyper- or hyporeactivity to sensory input or unusual interest in sensory aspects of the environment (e.g., apparent indifference to pain/temperature, adverse response to specific sound or textures, excessive smelling or touching of objects, visual fascination with lights or movement).

C. Symptoms must be present in 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).

D. Symptoms cause clinically significant impairment in social, occupational, or other important areas of current functioning.

(Exh. 23.)

8. These essential diagnostic features of ASD—deficits in social communication and social interaction (Criterion A) and restricted repetitive patterns of behavior, interests, and activities (Criterion B)—must be present from early childhood and limit or impair everyday functioning (Criteria C and D).

9. The DSM-5-TR defines ID as "a disorder with onset during the developmental period that includes both intellectual and adaptive functioning deficits in conceptual, social, and practical domains." (Exh. 24.) The following three criteria must be met:

> A. Deficits in intellectual functions, such as reasoning, problem solving, planning, abstract thinking, judgment, academic learning, and learning from experience, confirmed by both clinical assessment and individualized, standardized intelligence testing.
>
> B. Deficits in adaptive functioning that result in failure to meet developmental and socio-cultural standards for personal independence and social responsibility. Without ongoing support, the adaptive deficits limit functioning in one or more activities of daily life, such as communication, social participation, and independent living, across multiple environments, such as home, school, work, and community.
>
> C. Onset of intellectual and adaptive deficits during the developmental period.

(Exh. 24.)

10. Thus, the definitive characteristics of ID include deficits in general mental abilities (Criterion A) and impairment in everyday adaptive functioning, in comparison to an individual's age, gender, and socio-culturally matched peers (Criterion B). To meet the diagnostic criteria for ID, the deficits in adaptive functioning must directly relate to the intellectual impairments described in Criterion A. Onset is during the developmental period (Criterion C). A diagnosis of ID cannot not be assumed because of a particular genetic or medical condition. Any genetic or medical diagnosis is a concurrent diagnosis when ID is present. The DSM-5-TR emphasizes the need for an assessment of both cognitive capacity and adaptive functioning. The severity of ID is determined by adaptive functioning rather than IQ score. (*Ibid*.)

11. The DSM-5-TR has no diagnostic criteria for the Lanterman Act's "fifth category," which is a category intended to capture disabling conditions closely related to ID or conditions requiring treatment similar to that required for individuals with ID. Dr. Ballmaier explained the NLACRC Interdisciplinary Eligibility Committee is guided by the *Association of Regional Center Agencies Clinical Recommendations for Defining "Substantial Disability" for the California Regional Centers* when determining whether an individual functions in a manner similar to that of a person with ID or requires treatment similar to that required by individuals with ID because of substantial limitations or impairments in several domains, including self-care, receptive and expressive language, learning, mobility, self-direction, independent living, and economic self-sufficiency. (See Exh. 26.)

12. Dr. Ballmaier explained NLACRC's initial evaluation and assessment of Claimant began with a telephonic social assessment of Claimant's adaptive functioning across several domains—motor, self-care, safety awareness, cognition, communication, and social/behavioral—by Beatriz Osequeda, M.B.A., an intake service coordinator, on

September 28, 2022. The social assessment is based on information Mother provided Ms. Osequeda. The resulting *Telephonic Social Assessment* report describes Claimant as highly distracted and lacking appropriate depth perception. He has issues with his coordination. He requires Mother's physical guidance and reminders to complete his self-care tasks (dressing, bathing, hygiene, and grooming). In terms of safety awareness, Claimant is not aware of his immediate surroundings. He is unable to stay close to his parents during community outings and will run to unfamiliar individuals and hug them. His tone is loud and his words are difficult to understand. He engages in off-topic speech. He is unable to express appropriately his feelings and emotions. He lacks age-appropriate social skills. He tends to be avoidant, socially isolates, and engages in parallel play. He lacks boundaries and invades others' personal space. He is unable to share with others. He displays fleeting eye contact. (See Exh. 4.)

13. Dr. Ballmaier testified, "Mother's reporting raised concerns so his case was moved forward." On October 4, 2022, Carlo DeAntonio, M.D., conducted a chart review of Claimant's medical records. Dr. DeAntonio concluded, "Available information in the chart does not suggest the presence of a substantially handicapping cerebral palsy or epilepsy." (Exh. 5.)

14. On January 24, 2023, Alan Golian, Psy.D., conducted a psychological evaluation to assess Claimant for ASD and ID. At the time of Dr. Golian's evaluation, Claimant was a seven-year-old first grader. In addition to conducting a record review and behavioral observations, Dr. Golian administered the following assessments to Claimant: Wechsler Preschool and Primary Scale of Intelligence, Fourth Edition (WPPSI-IV); Autism Diagnostic Observation Schedule, Second Edition (ADOS-2)-Module 3; and the Vineland Adaptive Behavior Scales, Third Edition (VABS-III). Dr. Golian reported the following diagnostic findings:

The results of this evaluation may indicate that [Claimant] does not meet criteria for [ASD]. In this evaluation, [Claimant] demonstrated appropriate communication skills, social reciprocity, nonverbal communicative behaviors, and play skills. Specifically, [Claimant] made many spontaneous comments, responded to questions, and volunteered information in conversation. [Claimant] also made appropriate inferences, identified humor, pointed out details of interest and imitated the actions and facial expressions of the characters in the story book on multiple instances (i.e., of the frog waving, the man eating a sandwich, the frogs anticipating crashing into sheets that were on the clothesline). During breaks, [Claimant] initiated an arm-wrestling match with the examiner and conveyed shared enjoyment. [Claimant's] eye contact, facial expressions, and use of gestures were within normal limits. Furthermore, [Claimant] engaged in interactive play with the examiner, discussed his emotions (i.e., reported that he enjoys going to school and playing Zombie games with his friends), and demonstrated some understanding of long-term relationships. [Claimant] did not have any difficulty transitioning from one activity to another and there are no observed stereotyped, sensory, restricted, or repetitive behaviors characteristic of the disorder.

[Claimant] also does not meet criteria for [ID], as measured by his performance on the WPPSI-IV. His [Full Scale IQ]

> score of 103 places [him] within the 58th percentile and is classified within the Average range. There was consistency across the five composites of the measure as [Claimant] performed at an age-expected level on tasks that measured vocabulary/word knowledge, verbal reasoning skills, visual-spatial processing, nonverbal logical reasoning, problem-solving, abstract thinking, visual short-term memory, and processing speed. Therefore, based on the current testing, interviews, and behavioral observations, the most appropriate diagnoses may be . . . Attention-Deficit/Hyperactivity Disorder [ADHD], Combined Type[.]

(Exh. 6 at pp. 6-7 [A29-A30].) An illustration of Claimant's IQ score on a bell curve titled Interpretation of Evaluation Results is admitted as Exhibit 23.

15. Dr. Golian's recommendations state, among other things, "[Claimant] would benefit from a school-based evaluation to determine his eligibility for Special Education services due to reported challenges with learning and attention" and "[Claimant] would also benefit from continued mental health services to address concerns related to aggression and impulse control." (Exh. 6 at p. 6 [A29].)

16. Dr. Ballmaier testified the NLARC Interdisciplinary Eligibility Committee reviewed and considered the social assessment, medical, and psychological evaluation reports discussed in Factual Findings 12 through 15 and determined Claimant was not eligible for Lanterman Act services and supports. The committee recommended "follow up with mental health services." (Exh. 7.) By letter dated February 7, 2023, NLACRC informed Mother of the committee's ineligibility determination. (See Exh. 8.)

17. Approximately one year later, on March 8, 2024, DCFS sent NLACRC a second referral requesting an evaluation of Claimant to "rule out autism and/or any other developmental delay." The second referral notes Mother's "current concerns" as "toe walking, poor sleeping habits, hard time making friends, [Claimant] says everyone hates him, seeks out texture, sensory seeker (auditory process is off) does not maintain eye contact, can't sit still. Teachers noticed [Claimant] struggles to meet friends. [Claimant] shows self-harming." (Exh. 9.) At the time of the second referral, Claimant was an eight-year-old second grader.

18. Dr. Ballmaier testified DCFS's second referral "started the process all over again." On March 22, 2024, Angelia L. Franklin, B.A., an NLACRC intake coordinator, conducted another social assessment of Claimant by videoconference. The social assessment is based on information Mother provided Ms. Franklin. The resulting *Telephonic Social Assessment* report describes Claimant as very polite, articulate, talkative, constantly moving, jumping, and climbing on things, including a sensory swing and gymnastic bar located in his bedroom. He is completely toilet trained. He bathes and dresses himself independently with verbal prompting. He prepares simple snacks for himself and he uses the microwave oven with supervision. He has some sensitivity to food textures, tastes, and smells. He prefers clothing with soft textures. In terms of safety awareness, he pays attention to his surroundings most of the time. He can be overly friendly with strangers. He has an Individualized Education Plan (IEP) in his school district and reportedly he is doing better in school although he still has difficulty staying focused and following complex directions. Socially, he makes good eye contact when speaking to others in a familiar setting or when he is at ease. He carries on reciprocal conversations when the subject is of interest. He is described as friendly and empathetic; however, he can be overbearing. He shares and takes turn

most of the time. He is easily frustrated and can be aggressive. Lately, he has not engaged in self-injurious behavior. (Exh. 10.)

19. Dr. Ballmaier further testified that during the eligibility redetermination process, NLACRC obtained and reviewed documents from Claimant's school district, namely Child Study Team Meeting Notes, dated March 13, 2023, and Claimant's initial IEP, dated January 17, 2024. The Child Study Team Meeting Notes record Claimant's teacher's concern that Claimant is "capable but often chooses not to do the work," Claimant "automatically shuts down instead of trying when work is more than he wants to do," and Claimant is "impatient and doesn't follow directions." (Exh. 11 at p. 1 [A45].) Claimant's IEP establishes Claimant meets the eligibility requirements for special education under the classification of Emotional Disturbance (ED) and Other Health Impairment (OHI). The IEP contains the following elaboration:

> Currently [Claimant] does exhibit elevated social emotional concerns (ex. Pervasive mood of unhappiness/depression, inappropriate behaviors under normal circumstances, and complaints of somatization), these behaviors seem to be a major factor impeding his learning and access to the general education curriculum at this time. [Claimant] is unable to form appropriate attachments, build or maintain relationships with peers or adults, and participate appropriately (ex. Disruptive and self-injurious behaviors) without additional supports at this time.
>
> Furthermore, due to his diagnosis of ADHD and elevated Conners rating scales, [Claimant] does meet the eligibility criteria as a student with Other Health Impairment (OHI).

> [Conners 3rd Edition or "Conners rating scales," is a questionnaire for assessing behavioral and academic issues in children and adolescent, and it is often used to diagnose ADHD. (See Exh. 19 at p. 22 [A114].)] [¶-¶]

(Exh. 12 at pp. 2-3 [A49-A50].)

20. Dr. Ballmaier testified based on its review of Claimant's school records discussed in Factual Finding 19, the NLARC Interdisciplinary Eligibility Committee again concluded Claimant does not meet the criteria for a developmental disability under the Lanterman Act. The Interdisciplinary Eligibility Committee noted Claimant's significant mental health issues and recommended "follow up with mental health and school programming." (Exh. 14.) By letter dated March 27, 2024, NLACRC informed Mother the Interdisciplinary Eligibility Committee determined Claimant was not eligible for Lanterman Act services and supports. (See Exh. 15.)

21. Thereafter, NLACRC received the Parent Report and Score Report in connection with Claimant's school district's administration of the *Woodcock-Johnson IV Tests of Achievement Form A and Extended* to Claimant on November 3, 2023. (See Exhs. 16 and 17); Claimant's school district's Health Assessment report on Claimant, dated January 16, 2024 (Exh. 18.); and Claimant's school district's Psychoeducational Assessment Report on Claimant, dated January 17, 2024 (Exh. 19.) These tests and assessments detail the supporting data on which Claimant's school district relied to determine whether Claimant meets criteria for special education under the Other Health Impairment and Emotional Disturbance classifications. The aggregate supporting data indicates Claimant's cognitive and processing abilities—crystalized knowledge, fluid reasoning, short-term memory, long-term retrieval, visual processing, visual motor integration, and processing speed—fell within the average to high range.

Claimant's auditory processing, however, fell in the low range compared to his same-age peers. His writing and reading skills fell in the low range, while his mathematics abilities fell within the average range. Claimant's second grade report card, admitted as Exhibit 13, show grades indicating Claimant is functioning below grade level and struggling to stay on task.

22. The aggregate supporting data further indicates in the area of social-emotional and behavioral functioning, based on his teacher and Mother's reporting, Claimant displays heightened symptoms of ADHD-like behaviors. For example, the parent rating scale associated with the Conners 3rd Edition indicated elevated scores in the areas of Inattention, Hyperactivity/Impulsivity, Learning Problems, Executive Function, and Family Relations. In addition, Claimant's scores on the Reynolds Child Depression Scale, Second Edition indicated he is experiencing very elevated levels of depression or depressive episodes across settings. The Psychoeducational Assessment Report chronicles numerous incidents of Claimant's expression of self-harm. The Health Assessment documents Claimant's medical diagnosis as Emotional Dysregulation Disorder and ADHD-ADD Combined type.

23. NLACRC also received a letter, dated October 31, 2024, from Claimant's current therapist who has been treating for at least six months. The letter states Claimant struggles with social interaction and communication and has difficulty learning. The letter, which requests the service agency to assess Claimant, states:

> Over the course of our time together, there have been concerns of client having deficits in his development. In addition to this, the caregiver has also brought to attention some concerns of client deficits in socializing with others. [Claimant] struggles with social interaction and

> communication. [Claimant] struggles to integrate with others, which causes him to have limited interactions. He is also developmentally behind in school for his age. [Claimant] struggles with reading, language, and becomes frustrated causing him to be withdrawn. With [Claimant's] difficulty it will be beneficial for him to be assessed for any development, intellectual, or learning disorders.

(Exh. 20.)

24. The Interdisciplinary Eligibility Committee reviewed and considered the additional information discussed in Factual Findings 21 through 23. Dr. Ballmaier testified, "The team decided to not authorize another psychological evaluation; there was no new information to warrant another evaluation." On November 1, 2024, NLACRC notified Mother that Claimant "is not eligible for Regional Center services as his condition does not meet the definition of a developmental disability as defined in law and regulation." (Exh. 22.)

Mother's Testimony

25. Mother testified, "I've had a lot of problems with this child. I love him to death but a lot of problems." Mother itemized her observations about and concerns with Claimant's behavior as follows: Claimant hugs everybody. Claimant runs after anything that interests him—squirrels, dogs—and multiple times he was almost ran over by a car. Claimant hides in small spaces causing Mother to believe he is missing and warranting notification of the police. Claimant struggles academically. Socially, Claimant does not have an off switch. Claimant cannot regulate his emotions; he's happy and giddy one minute then he explodes. Claimant hits himself and bangs his

head. Other children want nothing to do with Claimant. Claimant pees everywhere and has to be prompted with his self-care.

26. Mother testified Claimant is currently being home-schooled because "they refuse to allow him on campus because of his behavior issues." Mother further testified she "put [Claimant] in a home school environment before the school district determined whether he should be in special or general education." Claimant has a "school therapist" who meets with him once weekly to "work on staying calm and not getting overly upset."

27. Mother maintains Dr. Golian "only had a 20- to 30-minute assessment" and "it should have been longer." Mother testified, "I am concerned the assessment was not done properly. If you sat with this kid longer than 30 minutes you would understand something is wrong with him. . . . I want a proper assessment. [Claimant] need (*sic*) to be viewed multiple times."

LEGAL CONCLUSIONS

Standard and Burden of Proof

1. As Claimant is seeking to establish eligibility for Lanterman Act supports and services, he has the burden of proving by a preponderance of the evidence he has met the Lanterman Act's eligibility criteria. (*Lindsay v. San Diego Retirement Bd.* (1964) 231 Cal.App.2d 156, 161 [disability benefits]; *Greatorex v. Board of Admin.* (1979) 91 Cal.App.3d 54, 57 [retirement benefits]; Evid. Code, § 500.)

2. "'Preponderance of the evidence means evidence that has more convincing force than that opposed to it.' (Citations.) . . . [T]he sole focus of the legal

definition of 'preponderance' in the phrase 'preponderance of the evidence' is the *quality* of the evidence. The *quantity* of the evidence presented by each side is irrelevant." (*Glage v. Hawes Firearms Company* (1990) 226 Cal.App.3d 314, 324-325, original italics.) In meeting the burden of proof by a preponderance of the evidence, Claimant "must produce substantial evidence, contradicted or un-contradicted, which supports the finding." (*In re Shelley J.* (1998) 68 Cal.App.4th 322, 339.)

Applicable Law

3. The Lanterman Act defines "developmental disability" to mean the following:

> [A] disability that originates before an individual attains age 18 years, continues, or can be expected to continue, indefinitely, and constitutes a substantial disability for that individual. . . . [T]his term shall include intellectual disability, cerebral palsy, epilepsy, and autism. This 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 intellectual disability, but shall not include other handicapping conditions that are solely physical in nature.

(Welf. & Inst. Code, §4512, subd. (a)(1).)

4. California Code of Regulations, title 17 (CCR), section 54000 further defines "developmental disability" as follows:

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(a) "Developmental Disability" means a disability that is attributable to [intellectual disability], cerebral palsy, epilepsy, autism, or disabling conditions found to be closely related to [intellectual disability] or to require treatment similar to that required for individuals with [intellectual disability].

(b) The Developmental Disability shall:

(1) Originate before age eighteen;

(2) Be likely to continue indefinitely;

(3) Constitute a substantial disability for the individual . . .;

(c) Developmental Disability shall not include handicapping conditions that are:

(1) Solely psychiatric disorders where there is impaired intellectual or social functioning which originated as a result of the psychiatric disorder or treatment given for such a disorder. Such psychiatric disorders include psycho-social deprivation and/or psychosis, severe neurosis or personality disorders even where social and intellectual functioning have become seriously impaired as an integral manifestation of the disorder.

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> (2) Solely learning disabilities. A learning disability is a condition which manifests as a significant discrepancy between estimated cognitive potential and actual level of educational performance and which is not a result of generalized mental retardation, educational or psycho-social deprivation, psychiatric disorder, or sensory loss.
>
> (3) Solely physical in nature. These conditions include congenital anomalies or conditions acquired through disease, accident, or faulty development which are not associated with a neurological impairment that results in a need for treatment similar to that required for mental retardation.

5. Establishing the existence of a developmental disability within the meaning of the Lanterman Act and promulgated regulations requires Claimant additionally to establish by a preponderance of evidence the developmental disability is a "substantial disability," defined in section 4512, subdivision (*l*)(1), to mean "the existence of significant 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: (1) Self-care. [¶] (2) Receptive and expressive language. [¶] (3) Learning. [¶] (4) Mobility. [¶] (5) Self-direction. [¶] (6) Capacity for independent living. [¶] (7) Economic self-sufficiency." (See also CCR, § 54001, subd. (a); CCR, § 54002 defines "cognitive" as "the ability of an individual to solve problems with insight to adapt to new situations, to think abstractly, and to profit from experience.")

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Discussion

6. Claimant is asserting eligibility for Lanterman Act services and supports under the category of "autism." Over a two-year period commencing in September 2022 and ending on November 1, 2024, the NLACRC Interdisciplinary Eligibility Committee conducted a fulsome evaluation and assessment at least two times to determine whether Claimant presents with any condition meeting the definition of a developmental disability discussed in Legal Conclusions 3 through 5.

7. A preponderance of the evidence does not establish Claimant presents with cerebral palsy or epilepsy. (Factual Finding 13.).

8. A preponderance of the evidence does not establish Claimant presents with ID. Claimant's intellectual function measured by his Full Scale IQ score of 103 places him within the 58th percentile, which is classified within the Average range. (Factual Finding 14.) To the extent Claimant has experienced difficulties with his adaptive functioning, those difficulties are not related to any substantial intellectual deficit. All assessments and evaluations considered attributed those difficulties to Claimants' mental health status, including his ADHD, emotional dysregulation, and depression.

9. A preponderance of the evidence does not establish Claimant presents with a disabling with a "fifth category" condition requiring treatment similar to that required by an individual with ID. "Treatment" is about instruction. For an individual with ID, treatment entails breaking down skills into small steps and systematically and repeatedly practicing those steps with the individual. (See *Max C. v. Westside Regional Center* (Oct. 12, 2018, B283062 [nonpub. opn].) Treatment is distinct from "service," which is something intended to aid or help, such as services in hygiene, housekeeping,

money management, and transportation. (*Ibid.*) The credible evidence offered at the hearing neither suggests nor supports a finding Claimant requires treatment(s) similar to those required by a person with an ID.

10. A preponderance of the evidence does not establish Claimant presents with ASD. As discussed in Factual Finding14, Dr. Golian's administration of ADOS-2, which assesses the characteristics of ASD, revealed Claimant is capable of initiating and engaging in reciprocal communication. Claimant is capable of recognizing different facial expressions and emotions. As discussed in Factual Finding 18, Ms. Franklin, the intake coordinator who conducted a second social assessment of Claimant at age eight, observed his talkativeness and noted his eye contact when speaking to others. Ms. Franklin attributed the reported difficulties Claimant experienced maintaining friendships to Claimant's overbearingness when interacting with his peers and his misunderstanding of boundaries. As discussed in Factual Finding 19, Claimant's school district's psychoeducational evaluation identified Claimant's pervasive mood of unhappiness and depression as a contributing major factor interfering with Claimant's ability to form and maintain relationships with his peers.

11. Claimant does not present with sensory, stereotyped, or repetitive behaviors that substantially disable Claimant's adaptive functioning across domains. None of the various tests and assessments the Interdisciplinary Eligibility Committee considered reported Claimant engaged in stereotyped or repetitive behaviors.

12. A preponderance of evidence does not establish Claimant presents with a "substantial disability" across multiple settings in at least three or more areas of major life activities.

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(A) Receptive and expressive language: Claimant demonstrates no difficulty communicating his wants and needs. He uses language in a functional and communicative manner. He engages in reciprocal conversations.

(B) Learning: Claimant's intellectual functioning is reported as within the average range. Claimant presents with diagnoses for ADHD and Emotional Disturbance warranting his eligibility for special education services in his school district to ameliorate any learning challenges.

(C) Self-care: With prompting, Claimant can and does care for his personal hygiene and grooming needs.

(D) Mobility: Claimant is ambulatory; he requires no crutches, wheelchair, or walker for mobility.

(E) Self-direction: In his home setting, Claimant requires oversight and monitoring while engaged in age-appropriate tasks such as using a microwave oven to prepare snacks. Claimant's safety awareness is emergent. In his school setting, Claimant's school district reports Claimant's adaptive/daily living skills are "not an area of concern."

(F) Capacity for independent living: Given Claimant's developmental age, any assertion regarding his capacity for independent living would amount to speculation.

(G) Economic self-sufficiency: Notwithstanding Claimant's special education needs, the evidence suggests with appropriate educational remedial interventions Claimant is expected to achieve knowledge, skills, and training for employment resulting in his economic self-sufficiency.

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13. By reason of Legal Conclusions 1 through 12, cause exists to deny Claimant's appeal. Claimant has not met his burden of establishing by a preponderance of evidence his eligibility for Lanterman Act services and supports under section 4512, subdivision (a)(1), of the Welfare and Institutions Code.

ORDER

1. Claimant's appeal is denied.

2. North Los Angeles County Regional Center's determination that Claimant is ineligible for Lanterman Act services and supports is affirmed.

DATE:

JENNIFER M. RUSSELL
Senior 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 decision.