

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

**In the Matter of:**

**CLAIMANT,**

**vs.**

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

**DDS Case No. CS0017241**

**OAH No. 2024051071**

**DECISION**

Administrative Law Judge Frances M. Valdez, State of California, Office of Administrative Hearings, served as the hearing officer for this matter on June 24, 2024, in San Jose, California.

Claimant's parents appeared representing claimant. Claimant was present.

Executive Director's designee Monica Cosio-Martinez appeared for service agency San Andreas Regional Center (SARC).

The matter was submitted for decision on June 24, 2024.

## **ISSUE**

Is claimant eligible under the Lanterman Developmental Disabilities Services Act (the Lanterman Act, Welf & Inst. Code, § 4500 et seq.) for services through SARC?

## **FACTUAL FINDINGS**

1. Claimant was born in May 2021. She is three years old and lives with her parents.

2. Claimant's parents became concerned about claimant's development when she was four months old because she was not making expected progress with motor skills. In November 2022, claimant's pediatrician referred claimant to SARC for evaluation because claimant was not yet crawling or walking.

3. SARC staff members evaluated claimant and accepted claimant into the Early Start<sup>1</sup> program in December 2022, when claimant was approximately 18 months old. SARC staff members and claimant's parents developed an Individualized Family Service Plan (IFSP), which included service coordination and physical therapy services to address claimant's gross motor development.

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<sup>1</sup> The Early Start program is for infants and children younger than 36 months who are at risk for developmental delay or disability. (Gov. Code, § 95000 et seq.)

4. Claimant received physical therapy from July to September 2023 and again in January 2024. Claimant began to walk when she was 28 months old. The record did not establish whether claimant currently receives physical therapy.

5. On April 20, 2023, Talia Lester, M.D., a developmental-behavioral pediatrician, diagnosed claimant with autism spectrum disorder.

6. Starting in September 2023, claimant received Applied Behavior Analysis (ABA) therapy through health insurance; at the time of hearing, however, claimant was no longer receiving ABA therapy for insurance reasons not clearly established by the record.

7. SARC staff members evaluated whether claimant was eligible for ongoing services from SARC under the Lanterman Act. In April 2024, a clinical team that included a psychologist and service coordinator reviewed the evidence and determined that claimant did not satisfy eligibility criteria for either provisional or full eligibility for Lanterman Act services. Claimant's parents timely appealed on her behalf.

## **Eligibility Determination**

8. Mary Irwin, a physical therapist, conducted an assessment of claimant on March 1, 2024. For the assessment, Irwin observed claimant, interviewed claimant's mother, reviewed records, conducted hearing and vision screenings, and administered the Batelle Developmental Inventory, Third Edition (BDI-3), and Adaptive Behavior Assessment System (ABAS-3). Irwin noted that claimant met almost every goal set for her in her previous IFSP report, with one gross motor skill not yet met.

9. In evaluating claimant's BDI-3 assessment results, Irwin concluded that claimant demonstrated age-appropriate skills for cognitive and communication

domains. However, areas to address with claimant are her social-emotional, adaptive, and gross motor skills.

10. The ABAS-3 was completed by claimant's mother. Irwin concluded that strengths for claimant are her adaptive skills and areas of challenges are self-direction, communication, leisure, and self-care.

11. Faith Langlois-Dul, Psy.D., a psychologist, reviewed Irwin's assessment, as well as other records regarding claimant. Dr. Langlois-Dul noted that SARC files did not contain the full report with claimant's autism diagnosis explaining what behaviors led to the diagnosis.<sup>2</sup> Nevertheless, Dr. Langlois-Dul determined that Irwin's assessment of claimant revealed no delays and the areas of assessment showed low average to average scores. Dr. Langlois-Dul found that some ratings on the ABAS-3 by claimant's mother were lower and some far higher in select areas. Dr. Langlois-Dul concluded that claimant does not meet the criteria for full or provisional eligibility under the Lanterman Act.

12. Corinna Chan, SARC service coordinator, agreed with Dr. Langlois-Dul that claimant does not meet the criteria for full or provisional eligibility under the Lanterman Act.

## **Claimant's Evidence**

13. Claimant's mother reported that she first met with SARC staff members when claimant was very developmentally delayed in her motor skills. At that time,

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<sup>2</sup> At hearing, Cosio-Martinez clarified that SARC does not dispute claimant's autism diagnosis.

claimant could not crawl, walk, or roll over. Claimant's mother was unaware until February 2023 that SARC had found claimant eligible for Early Start services.

14. Claimant's mother disagrees with some of the IFSP assessment reports and does not recall certain assessments being completed. Claimant's mother noted that the IFSP's did not reflect claimant's challenging behaviors including her meltdowns, tantrums, and aggression towards her mother. Claimant limits her food intake to brown foods. Claimant wants only to watch television and when claimant's mother tries to limit television, claimant becomes more aggressive, including hitting her mother, throwing toys, and hurting the family dogs. Claimant was not responding to her name until she was over two years old.

15. Claimant's parents submitted a report from Dr. Lester in which she details claimant's history and current functioning as of April 20, 2023. Dr. Lester reviewed medical records, interviewed claimant's mother, conducted a clinical observation, and administered developmental assessments. As a result, Dr. Lester diagnosed claimant with autism spectrum disorder and found claimant has mild-to-moderate symptoms. Dr. Lester determined that claimant has an average level of autism-related symptoms compared to those with an autism diagnosis. Specifically, Dr. Lester found evidence of deficits in claimant's social and emotional reciprocity; nonverbal communicative behaviors; and developing, maintaining, and understanding relationships. Dr. Lester also found evidence of repetitive behavior, interests, or activities. Additionally, Dr. Lester determined that claimant has a gross motor delay. Dr. Lester encouraged claimant's parents to contact SARC "for consideration of possible ongoing eligibility due to her new diagnosis of autism."

16. Claimant underwent genetic testing, and the results were normal. Claimant was also evaluated by a neurologist, and the results were normal. Claimant's

mother was worried claimant was experiencing seizures because she would “space out” and would repeat the same words without stopping.

17. Claimant’s mother observed that claimant has benefited from ABA therapy and is doing better overall.

18. Claimant’s mother seeks regional center eligibility because her daughter has a disability, and she believes it will last her lifetime. Claimant’s mother has not been satisfied with SARC services and feels claimant could have been helped much sooner. She is concerned that her daughter will regress if she does not have access to regional center services.

## **LEGAL CONCLUSIONS**

1. The State of California accepts responsibility for persons with developmental disabilities under the Lanterman Act. (Welf. & Inst. Code, § 4500 et seq.) Lanterman Act services are provided through a statewide network of private, nonprofit regional centers, including SARC. (*Id.*, § 4620.)

2. Claimant bears the burden of establishing that she qualifies under the Lanterman Act for regional center services.

3. A “developmental disability” potentially qualifying a person for services under the Lanterman Act is “intellectual disability, cerebral palsy, epilepsy, [or] autism,” or any other condition “closely related to intellectual disability or [requiring] treatment similar to that required for individuals with an intellectual disability.” (Welf. & Inst. Code, § 4512, subd. (a)(1); see Cal. Code Regs., tit. 17, § 54000, subd. (a).) The matters

stated in Factual Finding 5 confirm that claimant has a developmental disability, autism spectrum disorder, potentially qualifying her for Lanterman Act services.

4. 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 . . . : (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), (l)(1); Cal. Code Regs., tit. 17, § 54001, subd. (a)(2).) For a child as young as claimant, only the first five of these seven activities are relevant.

5. Rather than being temporary, substantial disability qualifying a person for Lanterman Act services must be, or must be reasonably likely to be, lifelong. (Welf. & Inst. Code, § 4512, subd. (a)(1) [a developmental disability “continues, or can be expected to continue, indefinitely”]; Cal. Code Regs., tit. 17, § 54000, subd. (b)(2).) The evidence did not establish whether claimant’s disability is likely to be lifelong. (Factual Findings 2-18.)

6. The Lanterman Act deems children under the age of five “provisionally eligible for regional center services” if available evidence suggests but does not establish conclusively that they meet all requirements for full eligibility. (Welf. & Inst. Code, § 4512, subd. (a)(2).) In particular, the Lanterman Act authorizes a regional center to make a three-year-old child who currently experiences significant functional limitations in at least two areas of major life activity provisionally eligible for regional center services if information about the child’s developmental history is inadequate to demonstrate whether the child’s disability will continue to be substantial as the child matures. The evidence did not establish that claimant experiences substantial disability

in two areas of major life activity to make her provisionally eligible for regional center services. (Factual Findings 8-18.)

7. It is undisputed that claimant meets the diagnostic criteria for autism spectrum disorder, an eligible condition. However, the evidence failed to establish that claimant has significant functional limitations in two relevant areas of major life activity. The assessment conducted by SARC in March 2024 revealed that while claimant experiences challenges in certain areas, claimant does not currently demonstrate significant functional limitations. Claimant's parents submitted Dr. Lester's report from April 2023 diagnosing claimant with autism. Dr. Lester's report likewise did not address whether claimant has significant functional limitations in two of the relevant areas. Without a medical or psychological clinical diagnostic evaluation for claimant establishing substantial limitations in accordance with the Lanterman Act, the evidence available to SARC in April 2024 does not establish claimant's eligibility for Lanterman Act services. Accordingly, claimant has failed to meet her burden of establishing that she is eligible for regional center services at this time.

## **ORDER**

Claimant's appeal from SARC's determination that claimant is ineligible for services under the Lanterman Act is denied.

DATE:

FRANCES M. VALDEZ

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.