

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

In the Matter of:

CLAIMANT

v.

SAN ANDREAS REGIONAL CENTER, Service Agency.

DDS. No. CS0017433

OAH No. 2024051082

DECISION

Administrative Law Judge Michelle Dylan, State of California, Office of Administrative Hearings, who served as the hearing officer, heard this matter on July 11, 2024, by videoconference.

Claimant was represented by his parents. Claimant was present at the hearing but did not testify.

James Elliott represented San Andreas Regional Center (SARC).

The record was held open until July 19, 2024, for claimant to submit a legible copy of the last page of Exhibit 6, which was timely submitted and admitted as Exhibit A. The record closed and the matter was submitted for decision on July 19, 2024.

ISSUE

Is claimant eligible for regional center services under the Lanterman Act?

FACTUAL FINDINGS

Background

1. Claimant is 22 years old. He lives with his parents and older sister in Santa Clara County. Claimant has been diagnosed with autism spectrum disorder (autism or ASD).

2. Claimant's sister sought regional center services on behalf of claimant towards the end of 2023. SARC's interdisciplinary team, including an intake service coordinator, Sandra Luna, and a clinical psychologist, Cristal Byrne, Psy.D., conducted an intake social assessment of claimant and obtained and reviewed documents provided by his family. Claimant's parents and claimant were present and answered questions during the intake process which was held via videoconference. Claimant and his parents also completed questionnaires.

3. Dr. Byrne determined that claimant did not satisfy eligibility criteria. SARC issued a Notice of Action to claimant's family on April 15, 2024, stating that an eligibility determination assessment, including an observation and record review by the Regional Center, found that claimant does not meet criteria for eligibility as defined by law, and is therefore not eligible for services under the Lanterman Act. An appeal was submitted on May 28, 2024, challenging SARC's determination.

Regional Center Eligibility Criteria

4. To be eligible for services under the Lanterman Act (Welf. & Inst. Code, § 4500 et seq.), an individual must have a developmental disability that originates prior to age 18; the disability must not be solely physical in nature; the disability must be expected to continue indefinitely; and the disability must constitute a substantial disability for the individual. (Welf. & Inst. Code, § 4512, subd. (a)(1).) A substantial disability is defined as the existence of significant functional limitations in at least three of the following major life activity areas, as appropriate to the age of the individual: self-care, receptive and expressive language, learning, mobility, self-direction, capacity for independent living, and economic self-sufficiency. (*Id.*, subd. (1)(1).)

5. The parties agree that claimant has a developmental disability (ASD). Claimant contends that he has significant functional limitations in at least three of the seven listed areas of major life activities. SARC disagrees and contends that he does not demonstrate significant functional limitations in any of the listed areas of major life activities.

ASD Diagnosis

6. Claimant was diagnosed with ASD in Australia by clinical psychologist Martin Exell, M.Psych., on June 4, 2010. Kathy Ziatis, a speech pathologist, provided a separate report dated May 14, 2010, supplementing Dr. Exell's opinion. Based on information provided in Dr. Exell's June 4, 2010, report, and provided during SARC's intake meeting as well as the self- and parent-report on the Social Responsiveness Scale, Second Edition (SRS-2), Dr. Byrne agrees that diagnostic criteria for ASD have been met.

Developmental, Social, and Educational History

7. Claimant's mother did not take medications nor substances during her pregnancy with claimant. No complications were reported during her pregnancy nor labor.

8. When claimant was three years old and started school, his mother had concerns regarding his speech. She reported that he was not talking like his peers. Claimant reportedly received speech therapy from the ages of three to five and a half years old. Claimant attended a private school until he was eight years old, when he began attending public school. His public-school teacher raised concerns regarding claimant not being able to put full sentences together. Shortly thereafter, he was evaluated and diagnosed with autism.

9. Claimant qualified for special education services while attending Rehoboth Primary School (Rehoboth) in Australia in second grade in 2007 under the primary disability category of autism.

10. Claimant and his family moved to the United States from Australia shortly before he enrolled in 10th grade at Westmont High School.

11. Claimant graduated from Westmont High School and received a regular high school diploma in June 2020. Claimant was not offered any additional services by the school district after graduation such as post-secondary education.

12. Claimant is currently attending West Valley Community College.

PSYCHOEDUCATIONAL ASSESSMENT AND SPECIAL EDUCATION SERVICES

13. Claimant had a psychoeducational assessment completed in September 2017 when he was 15 years old by the Campbell Union High School District (District). The assessment included background information, interviews with claimant and his parents, observations of claimant, and a number of standardized assessments, including the Kaufman Brief Intelligence Test, Second Edition (KBIT2), and the Wechsler Individual Achievement Test, Third Edition (WIAT-III). Claimant was interviewed and answered numerous questions posed to him by the interviewer.

14. Claimant's parents reported that claimant completed all his previous schooling in Australia. Claimant attended Perth Montessori School (Perth) prior to moving to the United States. In 2007, while attending Rehoboth, he qualified for special education services under the primary disability category of autism. His parents reported that he received speech and language services prior to attending Perth, but not while attending Perth. They also reported that he performed adequately in school and did not require much additional support to make progress overall. His father reported that the students met on a weekly basis and received additional support in all subject areas, and that claimant did not participate in any special education classes for his core academic classes. Based on this information, the Westmont High School team determined that one academic support class would provide comparable supports to claimant's last services.

15. According to the results of the KBIT2, which is a cognitive assessment test, claimant obtained a full-scale intelligence quotient (IQ) of 85 which is in the Low Average Range, a Nonverbal IQ of 96, in the Average Range, and a Verbal IQ of 78, in the Below Average Range. On the WIAT-III, which evaluates academic achievement in reading, math, writing, and oral language, his Basic Reading and Written Expression

were in the Average Range, but his Mathematics and Oral Language were in the Low Range. The assessment concluded that claimant presented with behaviors related to autism that adversely affected his educational performance, and that he meets the eligibility criteria as a student with autism. A Speech and Language Assessment was referenced but not provided as part of the record.

16. An Individualized Education Program (IEP) was developed to support claimant at Westmont High School in 2017. The 2019 IEP noted that the District found claimant eligible for special education and related services based on autism. It noted that claimant had been receiving speech and language services to increase his social/pragmatic skills. The IEP also noted that claimant's adaptive/daily living skills were within age-appropriate levels and were not a concern at the time. The IEP did not note receptive and expressive language nor self-care as areas of need.

For the 2019–2020 school year, the IEP team agreed that the District would provide claimant with four periods of general education classes and two periods of specialized academic instruction for English and Academic Support, as well as 60 minutes each of college awareness and career awareness.

17. An IEP (Notice of Exit-Summary of Achievements/Performance) dated May 28, 2020, noted that claimant would be exiting from special education on June 3, 2020, because he would be graduating from high school with a regular diploma (based on meeting both the State of California's and the District's requirements for graduation with a regular high school diploma). The IEP noted that claimant was performing within an age-appropriate range in the areas of communication skills, self-help, and social/emotional, and that those areas were not a concern. It also noted that the area of "strengths, interests, learning preferences" was not an area of suspected disability.

APPLICATION FOR SARC SERVICES

18. Claimant's sister completed claimant's application for regional center services in September 2023. She described claimant as generally calm and polite. Regarding his communication skills, she wrote that he can express his needs and wants. Regarding his interactions with others, she reported that he is a bit quiet and can sometimes be a bit unresponsive, but he interacts well with most people. Regarding claimant's cognitive abilities, she wrote that he understands time, numbers, and quantities, recognizes letters of the alphabet, and can read and write "at a good level." He can focus on a preferred activity for more than 30 minutes, and on a non-preferred activity between 15 and 30 minutes. Regarding his ability for self-care, she wrote that he can independently dress, bathe and perform hygiene tasks, brush his teeth, toilet, eat, and he is mostly able to self-medicate, although he needs reminders to use medicated cream for eczema. Regarding his ability to perform household tasks, he cooks and prepares recipes, puts away dishes, sets and clears the table, vacuums his room, and looks after the dog. He needs some help making and receiving telephone calls, and somewhat understands emergency procedures. He can compare prices and save money when needed, use public transportation independently, and enjoys spending his free time playing games, watching videos, drawing, making music and spending time with friends.

19. Claimant's sister wrote that her primary concerns for claimant are lack of executive function, lack of motivation for goals and difficulty planning. She wrote that claimant needs to plan for the future and complete an associate degree, possibly a bachelor's degree. Desired services included independent living skills training, housing, internships, and work experience.

INTAKE SOCIAL ASSESSMENT

20. Luna and Dr. Byrne conducted an intake social assessment regarding claimant on December 15, 2023. Claimant and his parents participated via videoconference. Luna completed a report dated January 5, 2024. In the report, Luna noted that claimant can perform all his daily living and personal hygiene tasks independently. He sometimes cooks for his family on Wednesdays, and his household chores include clearing the table, loading the dishwasher, and cleaning his room. Claimant has a good sense of safety awareness. He takes public transportation on his own, and he stays home alone when his parents go out. His parents give him an allowance and set up a bank account for him.

21. Luna noted that claimant's mother reported that her primary concern is claimant's future and his ability to be independent. She reported that claimant requires assistance with money management and independent living skills, and that she is hoping to be able to gain access to services that support claimant with independent living skills, supported employment programs, and day programs.

SARC Eligibility Determination

22. Dr. Byrne agreed with the Dr. Exell's ASD diagnosis as set forth in Factual Finding 6. However, in a Lanterman Eligibility Determination Report dated April 8, 2024¹ authored by Dr. Byrne, she opined that:

Based on in-person interview with [claimant] and his
parents as well as a review of pertinent school and medical

¹ The report erroneously notes the year as 2023.

records and results of questionnaires, there is no evidence of substantial disability in any of the areas of adaptive functioning that are considered for the purpose of regional center eligibility. Therefore, since [claimant] does not meet both eligibility criteria for regional center services under the Lanterman Act, he is not eligible for services at this time.

23. In reaching her opinion, Dr. Byrne considered the following documents provided by claimant's parents: June 4, 2010, Evaluation Report, by Dr. Exell; March 19, 2010, Diagnostic Assessment Report, by Dr. Ziatas; May 28, 2020, North West Santa Clara County Notice of Exit-Summary of Achievement/Performance; August 29, 2019, North West Santa Clara County Individualized Education Program; and September 7, 2017, Campbell Union High School District Triennial Psychological Evaluation. Dr. Byrne also considered the SARC Application; SARC Intake Social Assessment; the December 15, 2023, interview and observation of claimant; the December 15, 2023, interview of claimant's parents; the SRS-2, which included a self-report from claimant; and a parent report (completed by his mother), and the Adaptive Behavior Assessment Scale, Third Edition (ABAS-3) which included a self-report from claimant and a parent report (completed by his mother). The ABAS-3 provides a comprehensive assessment of the development of adaptive skills with norm-referenced standard scores for three domains including conceptual, social, and practical as well as a General Adaptive Composite. Dr. Byrne addressed each of the areas of adaptive functioning that are considered for the purpose of regional center eligibility in her eligibility report as set forth below.

A. Mobility. Dr. Byrne noted that claimant ambulates independently without assistive devices and opined that there is not a substantial disability in mobility. Claimant agrees that he does not have a significant functional limitation in mobility.

B. Receptive and Expressive Communication. Dr. Byrne found that claimant was able to fully participate in the intake meeting and was able to provide appropriate and grammatically correct responses to the interviewer's questions, indicating that he can both understand and use spoken language to communicate with others. The self- and parent-report on the ABAS-3 suggested to Dr. Byrne that claimant is functioning in the Low (5th percentile) range to Below Average (16th percentile) range in overall communication. Dr. Byrne noted that the parent report of functioning in the Low range is not consistent with clinical observation of claimant's language ability during the intake meeting. She opined that there is not a substantial disability in receptive and expressive communication.

C. Self-Care. Dr. Byrne noted that claimant can independently complete all hygiene tasks, including toileting, bathing, and brushing his teeth. He can also dress and undress himself and feed himself using proper utensils. The self- and parent-report on the ABAS-3 suggests that claimant is functioning in the Average (between 37th and 50th percentile) range in the area of self-care. She opined that there is not a substantial disability in self-care.

D. Capacity for Independent Living. Dr. Byrne noted that claimant can prepare basic meals as well as follow recipes for dishes such as risotto. His father reported that he makes dinner for the family every Wednesday. Claimant reported that he independently operates the microwave and the stovetop/oven. Dr. Byrne also noted that claimant completes household chores, such as putting away the dishes and setting and clearing the table, vacuuming his room, and caring for the family dog. He

can do laundry without assistance, place outgoing and receive incoming phone calls, and understands emergency procedures, including calling 911. He is studying to take the driver's test and hopes to pass it soon. She noted that claimant can navigate public transit without assistance, occasionally walks unassisted to the grocery store, is capable of self-medicating and knows that he should contact the pharmacy if his medication runs out. He has a checking account and can check his account balance online and can make purchases using a debit card linked to his account. The self- and parent-report on the ABAS-3 suggests that claimant is functioning in the Low (5th percentile) to Below Average (19th percentile) range in practical living skills, which include community use, home/school living, health and safety, and self-care. Dr. Byrne noted that the parent report of functioning in the Low Range is not consistent with their report of functioning on the intake application² nor during the intake meeting. She opined that there is not a substantial disability in capacity for independent living.

E. Learning. Dr. Byrne noted that claimant graduated from Westmont High School in 2020 with a regular diploma. He currently attends West Valley Community College where he is taking general education credit courses such as math, music theory and art. Claimant reported that he generally receives B's and C's and occasionally A grades in his classes. The self- and parent-report on the ABAS suggests that claimant is functioning in the Low (5th percentile) to Average (37th percentile) range in functional academics. She noted that the parent report of functioning in the Low Range is not consistent with claimant's academic achievement up to this point. She also found that the results from the psychoeducational evaluation completed by the District in 2017 suggest that claimant's nonverbal cognitive functioning is in the

² It appears that claimant's sister filled out the application.

Average (40th percentile) range. She opined that there is not a substantial disability in learning.

F. Self-Direction. Dr. Byrne noted that claimant does not engage in destruction of property, self-injury, or aggression toward others when he is upset. Claimant reported during the intake meeting that when he is upset, he prefers to be alone and copes by engaging in a preferred activity or getting some fresh air. She noted that claimant has a stable group of friends who he sees on a weekly basis. The self- and parent-report on the ABAS-3 suggests that claimant is functioning in the Below Average (9th percentile) range in self-direction.

G. Economic Self-Sufficiency. Dr. Byrne noted that claimant is not currently employed; however, he is interested in getting a part-time job and has recently applied to several business in the retail and food industries. He is currently taking classes where he is completing his general education requirements and planning to earn an associate degree in computer programming. He hopes to transfer to a four-year university and earn a bachelor of art or bachelor of science degree and eventually become employed as a video game designer. Dr. Bryne opined that due to claimant's young age and lack of working experience it would be premature to determine a life-long substantial disability in economic self-sufficiency, particularly because he has taken developmentally appropriate steps in the right direction. She opined that there is not a substantial disability in economic self-sufficiency³ at this time.

³ The report erroneously noted self-direction when discussing economic self-sufficiency in this section.

Claimant's Evidence

24. Claimant's parents testified in a caring and clear manner regarding their observations of and concerns for their son. Claimant's father disagreed with some of the information recorded in the Lanterman Eligibility Determination Report and addressed the information at hearing. Claimant's father believes that claimant does not have a significant impairment in mobility but has significant impairments in the remaining six of the seven major life activity areas.

A. Receptive and expressive communication. Claimant's father reported that although the 2020 IEP found that claimant's communication was age appropriate at the time, claimant has been out of high school for a few years and has not advanced in his communication skills since then. Claimant's father reported that claimant has poor listening skills, and that he can only follow one or two directions at a time. He reported that when he was evaluated as a child in Australia claimant was found to have a low working memory. Claimant's father reported that claimant's sentences are simple and do not demonstrate a lot of variety; that he often does not reply to text messages in a timely manner, even emergency text messages; that he has difficulty reading emotional cues; that it is difficult for him to express his thoughts, particularly when he wants to avoid talking about an issue; and that he tends to speak about his own interests rather than the interests of others.

B. Self-Care/Capacity for Independent Living. Claimant's father reported that claimant has a low capacity for self-care and independent living. He reported that claimant must often be reminded to wash his hair, and to apply his medication for eczema; he does not thoroughly brush his teeth (spending one minute instead of three minutes) and does not always remember to floss his teeth; and he does not walk, toilet or feed the dog unless asked to do so. He needs guidance to operate the washing

machine and dryer, often waits for others to put his clothes in the dryer, and folds clothing inappropriately. Claimant's father reported that claimant struggles with motivation and has difficulty with planning and time management, and that he has trouble with tasks that require three or more steps. Although the routine is for claimant to make dinner for his family every Wednesday, claimant often must be reminded to do so; he sometimes waits until 6:00 or 7:00 in the evening to decide what to cook; compile the ingredients and start cooking; and sometimes he does not cook at all. Although claimant has the desire to get a driver's license, he has not scheduled a driving test. Claimant is often late for his classes because he underestimates travel time and does not leave the house in time to catch the bus. Claimant's father reported that claimant cannot manage his medical conditions independently and has never talked to the pharmacist or contacted the pharmacist on his own to fill his prescriptions. He reported that claimant does not appreciate dangerous situations such as walking in dangerous areas in the dark at night; and that he sometimes loses valuable belongings.

C. Self-Direction. Claimant's father reported that claimant has destroyed property in anger or inadvertently. He destroyed a computer display while closing the computer and he has slammed doors. He does not initiate plans in a social setting and allows his friends to organize activities. He refused to maintain a daily or weekly schedule that his family had written out for him. He does not want to follow routines.

D. Learning. Claimant's father reported that claimant participated in mainstream classes in high school but also had at least one course during the school year with other students that had ASD or learning disabilities. Claimant's father reported that claimant has a low ability to learn. He has difficulty with reading comprehension, writing essays with appropriate sentence structure and punctuation,

and math. He also gets distracted by his phone, friends, and environment, and has difficulty focusing on his schoolwork. He does not do well in courses that require self-motivation and/or independent research. He cannot navigate multi-step processes, like dropping a class at community college, by himself. Rather, he needs to be led through the process step-by-step. At the same time, he does not take advantage of the disability and education support program at West Valley Community College. Claimant's father reported that claimant has been taking classes at the college for four years, although the goal is to graduate in two years; and he is currently on academic probation. Claimant's family has hired an academic coach who is working with claimant on organizing his schoolwork and a tutor who is helping him with math.

E. Economic Self-Sufficiency. Claimant's father reported that claimant is not motivated to apply for jobs, and that he needs help from friends and family during the application and interview process. Claimant's father reported that he had a job as a cashier at a farmer's market, but that he was let go after one week because he could not do the calculations necessary for returning change in a timely manner. Claimant also experiences anxiety when interacting with customers and employers.

25. Claimant's father and his wife have lived with claimant as his caregivers for many years and have seen him in various situations. Claimant's father contends that their opinion should be given greater weight than SARC's opinion which he believes was based on one interaction with claimant.

26. Claimant's father and mother collaborated on completing the ABAS-3. Claimant's father reported that their responses to the survey were to the best of their knowledge based on their life with claimant and his capabilities. He reported that the adaptive levels reported in the ABAS-3 are substantially correct. He noted that the adaptive level for the General Adaptive Composite for the parent report was in the 4th

percentile, which is low, and in the 2nd percentile for Leisure, which is low, and contends that claimant should be eligible for services based on his limitations. He acknowledged that claimant's self-reported adaptive levels were higher than what his parents reported but thought claimant's report was less accurate because he reported more "positive things." Claimant's father believes that claimant is in danger of not being able to care for himself and that he needs the help of the regional center to achieve his goals.

27. Claimant's mother testified that she "basically concurs" with claimant's father's opinion regarding claimant's functioning in the six areas he addressed. She reported that it has been a struggle for their family to keep claimant focused on his studies and functioning because of their close relationship with him. She reported that claimant takes guidance better from third parties, like his coach, than he does from his family. She believes that claimant needs additional services because the family has reached maximum capacity in their ability to help claimant navigate his limitations, and she is asking for help from the regional center.

ULTIMATE FINDING

28. The evidence established that claimant meets the diagnostic criteria for ASD, an eligible condition. Dr. Byrne's opinion that claimant does not have significant functional limitations in the major life activities of mobility, receptive and expressive language, self-care, capacity for independent living, learning, and economic self-sufficiency, as defined by the Lanterman Act, was persuasive and consistent with the evidence presented at this time. However, the evidence presented at hearing, particularly the testimony from claimant's parents (although discussed under various major life activities), did establish that claimant has significant functional limitations in self-direction. (Factual Findings 19, 21, 24, 26 and 27.) Nevertheless, because the

evidence did not establish that claimant has significant functional limitations in three of the seven major life activity areas, on this record, claimant does not qualify for eligibility at this time.

LEGAL CONCLUSIONS

1. The State of California accepts responsibility for persons with developmental disabilities under the Lanterman Act. The purpose of the Act is to rectify the problem of inadequate treatment and services for the developmentally disabled, and to enable developmentally disabled individuals to lead independent and productive lives in the least restrictive setting possible. (Welf. & Inst. Code, §§ 4501, 4502; *Association for Retarded Citizens v. Department of Developmental Services* (1985) 38 Cal.3d 384.) The Act is a remedial statute; as such it must be interpreted broadly. (*California State Restaurant Association v. Whitlow* (1976) 58 Cal.App.3d 340, 347.)

2. A developmental disability is a disability that originates before an individual attains age 18, is likely to continue indefinitely, and constitutes a substantial disability for that individual. (Cal. Code Regs., tit. 17, § 54000, subd. (b).) The term "developmental disability" includes intellectual disability, autism, epilepsy, cerebral palsy, and what is referred to as the "fifth category." (Welf. & Inst. Code, § 4512, subd. (a).) The fifth category refers to "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.*)

3. Pursuant to Welfare and Institutions Code section 4512, subdivision (1), the term "substantial disability" is defined as "the existence of significant functional

limitations in three or more of the following areas of major life activity, as determined by a regional center, and as appropriate to the age of the person: (1) Self-care. (2) Receptive and expressive language. (3) Learning. (4) Mobility. (5) Self-direction. (6) Capacity for independent living. (7) Economic self-sufficiency.”

4. It is claimant’s burden to prove that he has a developmental disability, as that term is defined in the Lanterman Act. The standard of proof is a preponderance of the evidence.

5. It is undisputed that claimant meets the diagnostic criteria for ASD. (Factual Findings 6 & 28.) In addition, claimant has significant functional limitations in the area of self-direction. (Factual Finding 28). However, although he has challenges in some of the remaining major life activities, it was not established based on this record that he has significant functional limitations in the remaining major life activities. (Factual Finding 28). Therefore, claimant does not qualify for eligibility under the Lanterman Act at this time.

ORDER

Claimant’s appeal of the regional center’s denial of eligibility is denied.

DATE:

MICHELLE DYLAN
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.

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

In the Matter of:

S.L., Claimant,

vs.

San Andreas Regional Center, Service Agency.

DDS No. CS0017433

OAH No. 2024051082

ORDER ON APPLICATION FOR RECONSIDERATION

An Administrative Law Judge (ALJ) serving as a hearing officer from the Office of Administrative Hearings (OAH) issued a decision in this matter on July 26, 2024. On August 8, 2024, OAH received claimant's updated application for reconsideration of the decision under Welfare and Institutions Code section 4713. The application for reconsideration was timely submitted. It does not appear that claimant notified either the San Andreas Regional Center (SARC or Regional Center) or the Department of Developmental Services (DDS) about the request for reconsideration, as required. OAH informed SARC which did not file an opposition. The undersigned hearing officer did not hear the matter or write the decision for which reconsideration is requested.

A party may request reconsideration to correct a mistake of fact or law or a clerical error in the decision, or to address the decision of the original hearing officer not to recuse themselves following a request pursuant to Welfare and Institutions Code section 4712, subdivision (g). (Welf. & Inst. Code, § 4713, subd. (b).)

Claimant's Claims to Correct Mistakes of Facts

Claimant seeks reconsideration on claimed mistakes of facts. Specifically, claimant states the grounds on which the application for reconsideration is made as follows:

Factual Finding 18:

Page 7 line 7. [Claimant] often needs help with punctuation, grammar, not repeating himself, and making sense when writing.

Page 7 line 11-17. [Claimant] needs constant reminders to do household chores, and won't do them on his own. He often misses the bus or gets lost.

Factual Finding 23. D. Capacity for Independent Living

Page 10 line 22-23. [Claimant] needs constant reminders to do chores, he would not do them if he was not reminded. He often forgets to care for the family dog.

Page 11 line 1. [Claimant] cannot do laundry without assistance, he needs supervision to use the machines. He will let his dirty clothes pile up.

Page 11 line 3. [Claimant] is not studying for the driver's test. He lacks the motivation to do so.

Page 11 line 5. [Claimant] cannot self medicate for ezcema, he needs reminders and supervision to put on his ointment, and if he runs out he will not know how to contact his pharmacy or doctors office on his own. Sister has to help him with checking to see if he ran out, and helping him ask for a refill.

Factual Finding 23. E. Learning

Page 11 line 17-18. [Claimant] was on academic probation for a long time because he was getting mostly D's in his classes. He has a tutor who helps him in his classes, and helps him plan, he is not independent with his classes. Now, he usually gets Cs. He does not get mostly Bs.

Factual Finding 23. G. Economic Self-Sufficiency

Page 12 line 13-14. [Claimant] is studying studio arts, not computer programming. He has been in community college for 4 years and is not planning to earn a bachelors degree.

ANALYSIS

Claimant requested reconsideration seeking to correct several factual findings for alleged mistakes of facts. The issue at the fair hearing was whether claimant is eligible for regional center services. Claimant has the burden to prove that he has a

developmental disability and meets the criteria to be eligible for regional center services.

In the Decision, the hearing officer determined that claimant did not qualify for eligibility. The ALJ considered the testimony of claimant's witnesses and the exhibits admitted into evidence, including 11 exhibits offered by SARC and a diagnostic assessment report offered by claimant.

In Factual Finding 18, the hearing officer summarized information provided by claimant's sister in the application for regional center services. Claimant did not identify any mistakes of fact in the application for reconsideration in Factual Finding 18 and instead seeks to include additional evidence.

In Factual Finding 23, the hearing officer summarized SARC's clinical psychologist's Lanterman Eligibility Determination Report, in which she concluded that claimant was not eligible. Under the category of Capacity for Independent Living, the clinical psychologist noted several tasks that claimant can complete. Under the category of Learning, the clinical psychologist noted that claimant himself reported his grades in classes. Under the category of Economic Self-Sufficiency, the clinical psychologist noted that claimant stated that he is taking classes to complete his general education requirements and plans to earn an associate degree in computer programming, and he hopes to transfer to a four year university to earn a bachelor's degree to become employed as a video game designer.

At hearing, claimant's father disagreed with information in the psychologist's report. He testified that claimant had to be reminded often to complete tasks. He noted that claimant has a desire to get a license, but he has not scheduled a driver's test. He noted that claimant does not manage his medical conditions independently.

He testified that claimant has taken college classes with a goal to graduate and that he is on academic probation.

Claimant did not identify any mistakes of fact in the application for reconsideration in Factual Finding 23 and instead seeks to include additional evidence.

In the Decision, the hearing officer considered the evidence and testimony and concluded that claimant meets the diagnostic criteria for ASD, an eligible condition. The hearing officer concluded, after evaluating claimant's parents' testimony, that he has significant functional limitations in the area of self-direction. However, the hearing officer concluded that claimant is not eligible for regional center services because the evidence did not establish significant functional limitations in any other major life activity areas. The Decision analyzed the facts and applied the law as presented at hearing.

There are no mistakes of fact that require a correction. For the reasons stated above, the application for reconsideration must be denied.

ORDER

The application for reconsideration is DENIED.

DATE: August 22, 2024

REGINA BROWN
Presiding Administrative Law Judge
Office of Administrative Hearing

