

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

**In the Matter of:**

**CLAIMANT,**

**vs.**

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

**DDS No. CS0018191**

**OAH No. 2024060363**

**DECISION**

Administrative Law Judge Juliet E. Cox, State of California, Office of Administrative Hearings, heard this matter on October 17, 2024, in San José, California.

Claimant's father represented him at the hearing. Claimant was not present.

Executive Director's designee James Elliott represented service agency San Andreas Regional Center (SARC).

The matter was submitted for decision on October 17, 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?

## **FACTUAL FINDINGS**

1. Claimant applied to SARC in September 2023 for an evaluation and determination of his eligibility under the Lanterman Act for SARC's services.
2. SARC staff members obtained and reviewed records about claimant, and conducted an intake assessment interview with claimant and his father.
3. The SARC assessment team concluded in April 2024 that claimant does not meet statutory criteria for Lanterman Act services, and notified claimant accordingly. Claimant timely appealed.

### **Claimant's Life History**

4. Claimant was born in May 2010. He lives in San José with his parents and elder sibling. He has a close relationship with his sibling.
5. Claimant has progressed typically in school. He has received special education services since he began, although he is in a general education classroom. During the 2023–2024 school year, claimant's parents arranged for one-on-one tutoring for him as well.
6. According to his father, claimant prefers to spend his free time physically alone, rather than socializing with his family or in person with people outside his

household. His father believes that claimant does socialize electronically, however, such as by playing online video games. In his SARC intake interview, claimant identified a friend, although claimant's father does not have a good sense of claimant's peer relationships with classmates. Claimant has participated in sports activities in the past but does not currently do so.

7. As a young child, claimant was diagnosed with Attention Deficit Hyperactivity Disorder (ADHD). He has never taken medication for this condition.

### **Adaptive Function**

8. Neither claimant's application nor any other evidence identifies any impairment in claimant's mobility, self-care (ability to dress himself, feed himself, and attend to his own personal hygiene), or cognitive ability to learn from instruction or experience. Although claimant's grades in school are inconsistent, his father describes claimant as "very smart."

9. Claimant's parents believe he can stay home alone safely, such as while they are out working or socializing without claimant. He can recognize when he is hungry and can prepare basic meals; he understands, reasonably for his age (early adolescence), how to respond to emergencies inside or outside his home; and he can walk or bicycle by himself in his neighborhood. Neither claimant's application nor any other evidence identifies any impairment in claimant's capacity for independence as compared to other people claimant's age.

10. At claimant's age, his capacity for economic self-sufficiency is not a significant consideration for SARC in evaluating his degree of disability.

11. Claimant's application, his father's testimony about him, and his educational records all identify significant self-direction challenges for claimant. The application identifies "time management" as an important problem for claimant, and also notes that his family must prod him on non-school days to leave the house even for social or recreational activities that he enjoys. Claimant is capable of contributing to his family's well-being by doing household tasks such as cleaning a bathroom, but he usually does not do his assigned tasks without reminders. An Individualized Education Program from September 2023 includes reports from several teachers to the effect that claimant is fidgety and disruptive (although not maliciously so) in class, and requires constant attention and reminders to stay on task. Overall, the evidence shows claimant to experience substantial impairment as compared to other adolescents in self-direction.

12. Claimant did not speak many words when he was young, and still articulates some sounds poorly. He does not converse readily with strangers, although he is able to ask and answer questions appropriately. According to claimant's father and teachers, claimant's non-verbal communication skills are weaker than his verbal communication skills. During SARC's assessment (summarized below in Findings 17 and 18), however, claimant's ability to convey and receive information non-verbally, such as through gestures, facial expressions, and inference, was unremarkable to all observers. Overall, the evidence does not show claimant to experience substantial impairment as compared to other adolescents in communication.

## **Psychiatrists' and Psychologists' Evaluations**

13. In September 2018, when claimant was eight years old, his parents took him for evaluation because of several concerns about his psychological development and sleep. Child psychiatrist Sonia Gaur, M.D., reported that claimant "meets criteria

for Autism,” based on his limited communication skills and emotional expression and apparent sensory hypersensitivity, as well as for ADHD. Dr. Gaur did not report having conducted any specific autism-related assessments, however.

14. Psychologist Cheryl Ambler, Ph.D., conducted a further evaluation of claimant in early 2019. She observed him at school and reported that he interacted socially and appropriately with several classmates. In testing, claimant also communicated clearly with Dr. Ambler, including asking her to show him how to do some arithmetic computations. Despite these observations, and based on other psychological testing as well as on claimant’s parents’ descriptions of his early childhood behavior, Dr. Ambler concurred in Dr. Gaur’s diagnoses of autism spectrum disorder and ADHD.

15. In September and October 2019, psychologists Elizabeth Karp, Ph.D., and Jennifer Phillips, Ph.D., evaluated claimant through the Stanford Medicine Children’s Health Autism and Developmental Disabilities Clinic. This evaluation included several standardized psychological tests, including the Autism Diagnostic Observation Schedule, Second Edition (ADOS-2), the Social-Communication Questionnaire, and the NEPSY-2, a test that includes components to assess language abilities and social perception skills.

16. Dr. Karp and Dr. Phillips concurred in claimant’s previous ADHD diagnosis. They concluded, however, that “although [claimant] demonstrates social challenges, he does not meet criteria for autism spectrum disorder.” They drew this conclusion chiefly because, both on the tests they administered and by parent and teacher report about claimant’s life history, he “does not have the core deficits in social relatedness, nor the presence of restricted interests and repetitive behaviors inherent in individuals with” autism spectrum disorder.

17. SARC staff psychologist Cristal Byrne, Ph.D., evaluated claimant's eligibility and testified credibly about her conclusions. Dr. Byrne reviewed records about claimant, including school records and reports from the evaluations described in Findings 13 through 16. She also participated, along with SARC Intake Service Coordinator Cynthia Tamayo, in claimant's intake assessment interview.

18. Dr. Byrne also did not observe claimant to have deficits in his social communication skills, or strongly restricted interests or repetitive behavior. She noted as well that claimant's parents did not report strongly restricted interests or repetitive behavior during claimant's early childhood. Taking all evidence together, Dr. Byrne believes that claimant's ADHD diagnosis is accurate, and is the best explanation for the self-direction deficits summarized in Finding 11. She does not believe that claimant has autism spectrum disorder. Dr. Byrne's opinion is persuasive.

## **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." (*Id.*)

3. The matters summarized above in Findings 13 through 18 do not establish that claimant has any disorder that the Lanterman Act defines as a qualifying developmental disability.

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, 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).)

5. The matters summarized above in Finding 11 establish that claimant experiences significant functional limitations in self-direction. The matters summarized in Findings 8 through 10 and 12 do not establish that claimant experiences significant functional limitations in any other major life activity the Lanterman Act identifies. Further, the matters summarized in Findings 11 and 18 do not establish that claimant's deficit in self-direction arises from a disorder that the Lanterman Act defines as a qualifying developmental disability.

## **ORDER**

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

DATE:

JULIET E. COX

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.