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. CS0018153

OAH No. 2024060749

DECISION

Shanda W. Connolly, Administrative Law Judge, Office of Administrative Hearings, State of California, heard this matter by videoconference on September 9, 2025.

Claimant's grandmother (grandmother) represented claimant, who was not present at the hearing. (The names of claimant and grandmother are not used in this decision to protect their privacy.) Cristina Aguirre, Due Process Officer, represented North Los Angeles County Regional Center (NLACRC).

Oral and documentary evidence was received. The record was closed, and the matter was submitted for decision on September 9, 2025.

ISSUE

Is claimant eligible for regional center services based on a developmental disability under the Lanterman Developmental Disabilities Services Act, Welfare and Institutions Code[1] section 4500 et seq. (Lanterman Act)?

EVIDENCE PRESENTED

The documentary evidence at hearing consisted of: NLACRC Exhibits 1 through 42, and Claimant Exhibit A. The testimonial evidence at hearing was provided by Heike Ballmaier, Psy.D., NLACRC psychologist, and grandmother.

FACTUAL FINDINGS

1. Claimant is a seven-year-old female. Claimant asserts she is eligible for regional center services because she has autism spectrum disorder (ASD), intellectual disability, or a "fifth category" condition, i.e., a disabling condition closely related to intellectual disability or requiring treatment similar to that required for individuals with

[1] All further statutory references are to the Welfare and Institutions Code unless otherwise stated.

intellectual disability. The parties agree claimant does not have cerebral palsy or epilepsy.

2. On March 29, 2024, NLACRC issued a Notice of Proposed Action informing claimant of her ineligibility for regional center services. On June 6, 2024, grandmother appealed NLACRC's decision. The scheduled fair hearing for claimant was continued to allow claimant to submit additional mental health records to NLACRC and for NLACRC to reevaluate claimant for regional center eligibility. After receipt of the additional records, Dr. Ballmaier conducted a second psychological assessment of claimant on June 2, 2025. After reviewing that assessment, NLACRC again found claimant ineligible for regional center services.

3. This hearing ensued.

Claimant's Background

4. When claimant was an infant, the Department of Children and Family Services (DCFS) placed her with her paternal grandmother, where she has remained since that time. She lives with her older sister and younger brother at her grandmother's home.

5. Claimant was born at 24 weeks at LA-USC Medical Center (LA-USC). After birth, claimant was transferred to the hospital's neonatal intensive care unit, where she remained until she was six months old. Because of her prematurity, claimant required continuous oxygen for over a year after she was born. Until she was four years old, claimant had a G-tube for feeding that was used primarily when she was sick. Claimant's mother did not receive prenatal care, and grandmother suspects claimant's mother used drugs and drank alcohol during the pregnancy.

6. LA-USC referred claimant to the Early Start program, and claimant was deemed eligible to receive Early Start services from NLACRC starting on March 22, 2018, due to high-risk concerns. As explained in her Early Start Individual Family Service Plan (IFSP) from NLACRC dated April 7, 2020, claimant was below average in her gross motor development, fine motor development, and receptive and expressive language. According to the IFSP, grandmother was advised that claimant would meet her developmental milestones later due to her adjusted age. Grandmother agreed for claimant to receive child development therapy weekly and physical therapy two times per month to address her delays as part of claimant's Early Start services.

7. Claimant made good progress while in Early Start. At age 36 months, claimant's physical skill level was at 34 months and her speech, language, and social skills were at the 25 to 30-month developmental level. Because of her progress, claimant did not seek regional center services when she aged out of Early Start.

8. Claimant currently has diagnoses of asthma, ADHD, and eczema. She receives mental health services once a week at Tarzana Treatment Center (TTC) and takes medication to address her ADHD.

9. Claimant is in the second grade. According to claimant's Individual Education Plan dated March 14, 2025 (2025 IEP), claimant was deemed eligible for special education services based on the category of "Other Health Impairment" (OHI). According to the IEP, the OHI category was selected because of claimant's "chronic/acute health problems" and a diagnosis of Attention Deficit Hyperactivity Disorder (ADHD). (Ex. 13, at p. A141.) The 2025 IEP also noted that "a secondary eligibility of Autism clarifies [claimant's] current educational needs." (*Ibid.*) The 2025 IEP noted that the Autism Spectrum Rating Scales (ASRS), completed by claimant's teachers, showed claimant displayed a few behavioral characteristics like those

displayed by individuals diagnosed with ASD. However, the ASRS completed by grandmother for the IEP yielded ratings in the very elevated range, showing a high correlation with ASD. The 2025 IEP also referred to a February 10, 2025 medical note from Brian Gaw, M.D., showing a diagnosis of ADHD and "Autistic Disorder." (Ex. 13 at p. A146.)

10. Claimant's September 13, 2024 elementary school transcript found that she met performance expectations in most areas, except for exhibiting self-control, listening to others, staying on task, working independently, following directions, and completing assignments.

2024 and 2025 Evaluations

2024 Social Assessment

11. On August 4, 2023, DCFS referred claimant to NLACRC for regional center services based on a suspected or qualifying condition of intellectual disability and provisional eligibility. Claimant was five years old at the time. The referral notes claimant exhibited the following developmental delays: limited communication; physical difficulties, such as not moving independently, falling frequently, and difficulty tracking objects with her eyes; cognitive limitations, such as difficulties with problem-solving, learning skills, and use of common objects; adaptive limitations, such as difficulties with dressing, eating, and toileting, and social limitations. In addition, the referral notes impairments in claimant's adaptive functioning, such as difficulty following directions, needing information to be rephrased to a simpler level, and exhibiting poor academic levels.

12. On January 10, 2024, Norma Aragon, NLACRC's Intake Coordinator, performed a Social Assessment of claimant. Ms. Aragon noted claimant was very active

and aggressive. Ms. Aragon also noted the following based on her conversation with grandmother and her own observations: (1) for motor skills, claimant was ambulatory, could jump, hop on one foot, and run; (2) for self-care, claimant had toileting accidents three times per month and grandmother assisted her with bathing; (3) for social behavior, claimant initiated interactions with family and unfamiliar people, she was physically aggressive and throws her toys, she exhibited no repetitive behaviors and was not bothered by crowds, and she struggled with sleep and transitions; (4) for cognitive skills, claimant recognized colors and shapes, she could identify most letters of the alphabet, she could write her first name, and she could focus for about 10 minutes; and (5) for verbal skills, claimant spoke in phrases with clear speech and needed prompting several times in order to follow one-step directions. Based on her observations, Ms. Aragon determined that claimant should receive a medical and psychological evaluation, and upon receipt of those reports, be evaluated for regional center services.

2024 NLACRC Assessment

13. On March 7 and 14, 2024, Amalia Sirolli, Ph.D., conducted a psychological assessment of claimant to rule out ASD, intellectual disability, and borderline intellectual functioning. Dr. Sirolli administered the Wechsler Intelligence Scale for Children – Fifth Edition (WISC-V), Autism Diagnostic Observation Schedule-2 (ADOS-2), and Module 3, Vineland Adaptive Behavior Scales –Third Edition. Dr. Sirolli also interviewed grandmother and personnel at TTC as well as reviewed information from claimant's teachers and other records.

14. The WISC-V showed claimant had a full-scale IQ (FSIQ) score of 80 in the low average range. Claimant's verbal comprehension was 89; her visual spatial index was 86; and her working memory index was 85, with all scores in the low average

range. Claimant's fluid reasoning score was 91 in the average range, and her processing speed index was 77 in the borderline range. Dr. Sirolli noted that claimant's scores should be interpreted with caution because of their "great variability" and claimant comes from a bilingual/Spanish-speaking home. (Ex. 15 at p. A178.)

15. Based on her clinical interview of claimant, Dr. Sirolli found claimant to be sociable and to have good eye contact. Claimant did not exhibit sensory or repetitive behaviors during the interview. Claimant was able to complete tasks and was responsive to Dr. Sirolli's verbal reinforcements.

16. Dr. Sirolli administered the ADOS-2, which assesses possible characteristics of ASD, and presented claimant with a variety of opportunities to engage in typical social interactions. During the ADOS-2, claimant made good eye contact, engaged in back-and-forth communications, and did not display repetitive behaviors, unusual mannerisms, or sensory seeking or avoiding behaviors. Claimant was able to talk about her feelings and her friendships. Dr. Sirolli noted that claimant's "overall classification on the ADOS-2 was 'non-Autism.'" (Ex. 13 at p. A179.)

17. In analyzing whether claimant presented with ASD, Dr. Sirolli noted claimant's teachers reported claimant exhibited severe ADHD-associated symptoms, but no sensory issues or repetitive or unusual behaviors found in children with ASD. Dr. Sirolli also acknowledged grandmother reported claimant presented with ASD-like behaviors, i.e., engaging in aggressive behaviors and hand-flapping, struggling with change, and exhibiting sensory issues, such as being bothered by tags on clothes, sounds, and lights. However, Dr. Sirolli thought the behaviors described by grandmother could be attributed to claimant's mental health challenges possibly associated with ADHD, rather than ASD, because claimant did not exhibit these behaviors during her clinical assessment or in school.

18. Dr. Sirolli found that claimant did not meet the criteria for an ASD diagnosis and deemed claimant to have cognitive skills in the low average range. Dr. Sirolli ultimately did not render a diagnosis of claimant, and she referred claimant back to the NLACRC eligibility team. Dr. Sirolli suggested that claimant continue to receive mental health services.

19. On March 28, 2024, NLACRC's eligibility committee, which included Dr. Sirolli, determined that claimant had no qualifying disabilities and therefore was not eligible for regional center services.

TTC EVALUATION

20. Claimant has been treated at TTC since 2024 to manage her diagnoses of ADHD and Unspecified Neurodevelopmental disorder. According to Latosha Dent, PMHNP-BC, a psychiatric nurse practitioner at TTC responsible for claimant's mental health care, claimant's treatment included taking a psychotropic medication and weekly psychotherapy sessions. In a letter dated April 16, 2025, Ms. Dent explained that the ASRS she administered to grandmother in 2025 noted clinically significant autistic traits (i.e., abnormalities in social skills, communication skills, behaviors, cognition, and sensory/processing) and warranted further assessment for ASD. (Ex. 18, p. A202.) After that new testing NLACRC agreed to reevaluate claimant for regional center services.

2025 NLACRC ASSESSMENT

21. On June 2, 2025, Dr. Ballmaier conducted a second psychological assessment of claimant to determine whether she qualified for regional center services. Dr. Ballmaier administered the WISC-V to claimant; requested grandmother to complete the Adaptive Behavior Assessment System, Third Edition (ABAS-3) Parent

Form; administered the ADOS-2; administered and reviewed the ASRS from grandmother; conducted a clinical interview of claimant; and reviewed claimant's earlier records.

22. The WISC-V testing showed claimant had a borderline FSIQ of 79. Claimant had a verbal comprehension index of 73 in the borderline range and a fluid reasoning index of 97 in the average range. Dr Ballmaier noted a significant difference between claimant's verbal and nonverbal cognitive scores. Dr. Ballmaier concluded that claimant is "estimated to demonstrate cognitive functioning in the lower average range when compared to same-aged peers." (Ex. 19 at p. A207.)

23. Dr. Ballmaier found that claimant's "eye contact, facial expressions directed to others, shared enjoyment in interaction, spontaneous initiation of attention, social overtures and amount of reciprocal social communication were decreased but not obviously idiosyncratic or atypical." (Ex. 19, at p. A212.) Although grandmother reported claimant experienced social communication challenges, repetitive behaviors, behavioral rigidity, and sensory sensitivity, Dr. Ballmaier found that claimant's deficits resulted from her limited verbal language skills and learning impairments rather than ASD.

24. Dr. Ballmaier concluded that claimant had the following diagnoses: specific learning disorders, with impairments in reading, written expression, and mathematics; ADHD, Combined Type; and history of other specified trauma and stressor related disorder and disinhibited social engagement disorder, as noted in claimant's mental health records.

25. Dr. Ballmaier recommended that claimant: continue receiving special education; attend speech and language therapy at her local school district; participate

in structured social activities to improve her social and behavioral functioning; receive ongoing mental health services to address symptoms related to ADHD; and consult with the NLACRC eligibility team for a determination on regional center eligibility and additional recommendations.

26. On June 20, 2025, NLACRC's eligibility committee, which included Dr. Ballmaier, determined that claimant was not eligible for regional center services because they found no qualifying disabilities.

Testimony

DR. BALLMAIER

27. Dr. Ballmaier testified on behalf of NLACRC, as a member of the multi-disciplinary team that determined claimant was ineligible for regional center services in March 2024 and June 2025. Dr. Ballmaier also performed the psychological reevaluation of claimant in June 2025 and was knowledgeable about claimant's behaviors.

28. Dr. Ballmaier explained that Dr. Gaw's February 10, 2025 records finding "Autism present" and noting a diagnosis of "Autistic Disorder" (Exhibit A, pp. B1 and B3) did not support a finding of eligibility. Dr. Ballmaier maintained that Dr. Gaw's records failed to provide any information as to how he arrived at his ASD diagnosis, such as a description of any social abnormalities or repetitive behaviors he observed claimant to exhibit. Similarly, the 2025 IEP, which noted claimant's ASD-like behaviors as well as Dr. Gaw's ASD diagnosis, did not contain sufficient support for an ASD diagnosis. Specifically, the District administered no clinical testing other than the ASRS to determine whether claimant presented with ASD, and the ASRS by itself was not sufficient clinical support that claimant met the criteria for an ASD diagnosis.

29. Dr. Ballmaier explained that based on her assessment of claimant in June 2025, she did not find any qualifying disability of autism, intellectual disability, or fifth category disability. Although claimant's FSIQ was 79, her fluid reasoning was average, and she demonstrated more difficulties with language-based questions. Dr. Ballmaier attributed claimant's cognitive deficits to her learning disorders, rather than intellectual disability or fifth category disability. In addition, Dr. Ballmaier noted that claimant's ADHD was a mental health disorder that contributes to her learning issues.

30. In addressing whether claimant met the criteria for ASD, Dr. Ballmaier attributed the elevations reported in the ADOS-2 to claimant's poor language abilities rather than ASD characteristics. Dr. Ballmaier further explained that the elevated ASRS scores noted on April 16, 2025, by Ms. Dent, the psychiatric nurse practitioner, were insufficient to conclude claimant presented with ASD; an ASD diagnosis could not be based on only one clinical assessment instrument. In addition, Dr. Ballmaier attributed some of claimant's social abnormalities, such as a lack of fear of strangers, to her diagnosis of disinhibited social engagement disorder. Although Dr. Ballmaier agreed that grandmother described claimant exhibiting some autistic tendencies, such as sensory issues and repetitive behaviors, Dr. Ballmaier explained that overall claimant demonstrated insufficient characteristics of ASD as described in the Diagnostic and Statistical Manual of Mental Disorders, Fifth Edition Text Revision (DSM-5-TR).

GRANDMOTHER

31. Grandmother testified that she believes claimant may be eligible for services because she presents with the same tendencies as people with ASD. For instance, claimant will run across the street without looking, she does not sleep well at night, and she eats in small portions. In addition, grandmother noted that claimant

exhibits many sensory issues, such as being sensitive to noise and to the way clothes feel on her body.

Diagnostic Criteria

AUTISM

32. The DSM-5-TR is relied upon by mental health practitioners and others for diagnostic criteria.

33. Per the DSM-5-TR, the essential features of ASD are persistent impairment in reciprocal social communication and social interaction, and restricted, repetitive patterns of behavior, interests, or activities. These symptoms are present from early childhood and limit or impair everyday functioning. (Ex. 21, at pp. A220-29.)

INTELLECTUAL DISABILITY AND BORDERLINE INTELLECTUAL FUNCTIONING

34. The DSM-5-TR defines Intellectual Disability as "a disorder with onset during the developmental period that includes both intellectual and adaptive functioning deficits in conceptual, social, and practical domains." (Ex. 22, at p. A236.) The following three criteria must be met to establish that a person suffers from Intellectual Disability:

> 1. Deficits in intellectual functioning, 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.

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> 2. Deficits in adaptive functioning that result in failure to meet developmental and social-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.
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> 3. Onset of intellectual and adaptive deficits during the developmental period.

(Ex. 22, at p. A236.)

35. To meet the diagnostic criteria for Intellectual Disability, the deficits in adaptive functioning must be directly related to the intellectual impairments described in Criterion A. Onset is during the developmental period (Criterion C). A diagnosis of Intellectual Disability should not be assumed because of a particular genetic or medical condition. Any genetic or medical diagnosis is a concurrent diagnosis when Intellectual Disability is present. (Ex. 22, at pp. A238-39.)

36. The authors of the DSM-V-TR have indicated that "[i]ntellectual functioning is typically measured with individually administered and psychometrically valid, comprehensive, culturally appropriate, psychometrically sound tests of intelligence. Individuals with intellectual disability have scores of approximately two standard deviations or more below the general population mean, including a margin for measurement error (generally +5 points). On tests with a standard deviation of 15 and a mean of 100, this involves a score of 65-75. (70 +/- 5)." (Ex. 22, at p. A236.) At the same time, the authors of the DSM-V-TR recognize that "IQ test scores are

approximations of conceptual functioning but may be insufficient to assess reasoning in real-life situations and mastery of practical tasks." Thus, "a person with an IQ score above 70 may have such severe adaptive behavior problems in social judgment, social understanding, and other areas of adaptive functioning that the person's actual functioning is comparable to that of individuals with a lower IQ score." (*Ibid.*)

FIFTH CATEGORY

37. What is often referred to as the fifth category is not a diagnosis recognized by the DSM-V-TR, but instead was created pursuant to the Lanterman Act. Under the Lanterman Act, a person can be eligible if they have disabling conditions found to be closely related to intellectual disability or require treatment similar to that required for individuals with an intellectual disability, but the handicapping conditions should not include those solely physical in nature.

LEGAL CONCLUSIONS

1. Jurisdiction exists to conduct a fair hearing in the above-captioned matter, pursuant to section 4710 et seq., based on Factual Findings 1 through 3.

2. Because claimant is the party asserting a claim, she bears the burden of proving, by a preponderance of the evidence, that she is eligible for government benefits or services. (See Evid. Code, §§ 115 and 500.) Claimant has not met her burden of proving she is eligible for regional center services in this case.

Legal Conclusions Pertaining to Eligibility Generally

3. The Lanterman Act, at section 4512, subdivision (a)(1), defines developmental disabilities as follows:

> "Developmental disability" is a disability which 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 an intellectual disability, but shall not include other handicapping conditions that are solely physical in nature.

4. California Code of Regulations, title 17 (CCR), section 54000, subdivision (c), specifies those conditions that are not considered developmental disabilities. The excluded conditions 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.
>
> (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 [intellectual disability], 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 [intellectual disability].

5. To prove the existence of a developmental disability within the meaning of section 4512, a claimant must show that he has a "substantial disability." CCR section 54001 defines "substantial disability" to mean:

(1) A condition which results in major impairment of cognitive and/or social functioning, representing sufficient impairment to require interdisciplinary planning and coordination of special or generic services to assist the individual in achieving maximum potential; and

(2) The existence of significant functional limitations, as determined by the regional center, in three or more of the following areas of major life activity, as appropriate to the person's age:

(A) Receptive and expressive language;

(B) Learning;

(C) Self-care;

(D) Mobility;

(E) Self-direction;

(F) Capacity for independent living;

(G) Economic self-sufficiency.

6. In addition to proving a "substantial disability," a claimant must show that her disability fits into one of the five categories of eligibility set forth in section 4512. The first four categories are as follows: intellectual disability, epilepsy, autism, and cerebral palsy. The fifth and last category of eligibility is described as "Disabling conditions found to be closely related to intellectual disability or to require treatment similar to that required for individuals with intellectual disability." (§ 4512.)

7. The fifth category is not defined by statute or by regulation. In *Mason v. Office of Administrative Hearings* (2001) 89 Cal. App. 4th 1119, 1129, the California Court of Appeal provided general guidance: "The fifth category condition must be very similar to [intellectual disability], with many of the same, or close to the same, factors required in classifying a person as [intellectually disabled]. Furthermore, the various additional factors required in designating an individual developmentally disabled and substantially handicapped must apply as well." It is therefore important to consider factors required for a diagnosis of intellectual disability when assessing fifth category eligibility.

Legal Conclusions Specific to This Case

8. Claimant is not eligible to receive regional center services on the grounds of cerebral palsy or epilepsy. (Factual Finding 1.)

ASD

9. Claimant did not show by a preponderance of the evidence she is eligible for regional center services based on ASD.

10. None of the NLACRC examining psychologists diagnosed claimant with ASD, and claimant did not meet the DSM-5-TR criteria for the condition. (Factual Findings 18, 23, 24.) Dr. Sirolli noted that claimant did not exhibit behaviors consistent with ASD and found claimant did not present with ASD based on the ADOS-2. In addition, Dr. Sirolli opined claimant's elevated ASRS scores provided by grandmother could be attributed to mental health challenges possibly associated with ADHD, rather than ASD. (Factual Findings 16-17.)

11. Dr. Ballmaier confirmed Dr. Sirolli's findings. Dr. Ballmaier attributed the limitations reflected in some of claimant's ADOS-2 scores to poor language abilities rather than ASD characteristics. In addition, Dr. Ballmaier attributed some of claimant's social abnormalities, such as a lack of fear of strangers, to claimant's diagnosis of disinhibited social engagement disorder. (Factual Findings 23, 30.) Both psychologists attributed claimant's behaviors to mental health issues or learning disabilities, neither of which is considered a developmental disability under CCR section 5400, subdivision (c).

INTELLECTUAL DISABILITY AND FIFTH CATEGORY

12. Claimant did not show by a preponderance of the evidence she is eligible for regional center services based on intellectual disability or fifth category disability. None of the examining psychologists diagnosed claimant with intellectual disability, and claimant did not meet the DSM-V-TR criteria for the condition. (Factual Findings 18, 24.) In addition, none of the examining psychologists found claimant eligible for

services based on fifth category disability. (Factual Findings 18, 26.) Claimant's FSIQ scores of 79 and 80 are higher than the typical IQ of 70 or below for intellectual disability. (Factual Findings 14, 22, and 29.) In addition, Dr. Ballmaier attributed claimant's deficits reflected in these scores to claimant's learning disorders, rather than intellectual disability or fifth category disability. Dr. Ballmaier further noted that claimant's ADHD contributed to her learning problems. (Factual Finding 29.)

13. As set forth in Factual Findings 1 through 37 and Legal Conclusions 1 through 12, claimant did not establish that she has a developmental disability that makes her eligible for services under the Lanterman Act.

ORDER

NLACRC's determination that claimant is not eligible for regional center services is sustained. Claimant's appeal of that determination is denied.

DATE:

Shanda W. Connolly
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.