

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

**In the Matter of:**

**CLAIMANT**

**and**

**WESTSIDE REGIONAL CENTER, Service Agency.**

**DDS No. CS0018655**

**OAH No. 2024070147**

**DECISION**

Administrative Law Judge Juliet E. Cox, Office of Administrative Hearings, State of California, heard this matter on May 7, 2025, by videoconference.

Claimant represented herself.

Director's Designee Ron Lopez appeared for service agency Westside Regional Center.

Oral and documentary evidence was received. The record was closed, and the matter was submitted for decision on May 7, 2025.

## **ISSUE**

Is claimant eligible under the Lanterman Developmental Disabilities Services Act (Lanterman Act, Welf. & Inst. Code, § 4500 et seq.) to receive services as a Westside Regional Center (WRC) consumer?

## **FACTUAL FINDINGS**

1. Claimant was born in 1981. She is married, with one child, and lives with her spouse, child, and spouse's sibling.

2. Claimant has several physical health challenges that affect her daily life. She has a connective tissue disorder, which has affected her since infancy. In addition, for the last few years she has been deaf in one ear and has had balance problems because of injury to an acoustic and vestibular nerve.

3. In mid-2024, claimant applied to WRC to become a WRC consumer. After evaluation, WRC notified claimant that WRC's eligibility team had concluded that claimant did not qualify under the Lanterman Act for WRC services. Claimant timely appealed.

### **Eligible Developmental Disability**

4. Claimant contends that she qualifies under the Lanterman Act for WRC's services because of substantially disabling autism spectrum disorder (ASD). She does not contend that she has intellectual disability, cerebral palsy, epilepsy, or another condition that requires treatment similar to the treatment for intellectual disability.

5. Claimant has used psychotherapy and medication to manage depression and anxiety for many years. In late 2023, her treating psychotherapist referred her for an ASD evaluation.

6. Clinical psychologist Donald P. Gallo, Ph.D., evaluated claimant in April 2024. Dr. Gallo interviewed claimant and administered standardized psychological screening tools. He also reviewed information about claimant's life history. He concluded that claimant has ASD, characterizing its severity as "Level 1" (least severe) for both social impairment and restricted interests or repetitive behaviors.

7. Psychological Associate Kristen M. Prater, Psy.D. (supervised by licensed clinical psychologist Rebecca R. Dubner, Psy.D.) evaluated claimant in October 2024. Dr. Prater also interviewed claimant, administered standardized psychological screening tools, and reviewed information about claimant's life history.

8. Although Dr. Prater's written report misstates some information about claimant, its overall description of her life history and current behavior is very similar to Dr. Gallo's description. Dr. Prater concluded, however, that claimant does not have ASD. She based this conclusion primarily on her belief that claimant's lifelong difficulty establishing and maintaining social relationships, and her restricted interests, are more likely the result of depression, anxiety, and attention deficit disorder than of ASD.

9. Claimant argues that Dr. Prater's conclusions reverse cause and effect. In claimant's view, her ASD and her connective tissue disorder cause a variety of social and physical challenges for her that contribute to her anxiety, low mood, and poor executive function. Claimant presented her own and two other witnesses' testimony to support this argument, explaining in pertinent part that claimant's social difficulty, sensory sensitivity, and restricted interests are lifelong traits and that these traits have

not changed despite medications that improve and stabilize claimant's mood, decrease her anxiety, and address some of her physical symptoms.

10. In light of Dr. Gallo's analysis, claimant's criticism of Dr. Prater's conclusion is reasonable. Dr. Gallo's diagnosis is adequate evidence that claimant has ASD.

## **Substantial Disability**

11. Claimant contends that her ASD causes her to experience major impairment in social functioning, with significant functional limitations in self-care, self-direction, capacity for independent living, and economic self-sufficiency. She does not contend that her ASD causes significant functional limitations for her in mobility, learning, or language.

12. Claimant limits her social interactions, but she engages in social and parasocial relationships; she is a married parent; and she pays attention to events in her community and in the world at large. Although both Dr. Gallo and Dr. Prater identified social challenges for claimant, neither clinician concluded that claimant experiences major social impairment. Their conclusions are reasonable and persuasive.

13. "Self-care" refers to a person's ability to perform basic life tasks such as eating, bathing, and dressing. Claimant is able to shop, cook, eat, bathe, and protect her own health and safety. The evidence does not establish that claimant has significant limitations in her self-care ability.

14. "Self-direction" refers to a person's ability to make and carry out appropriate daily plans, including but not limited to plans for self-care. The evidence establishes some deficits for claimant in self-direction. For example, claimant

understands that her short-term preferences regarding how often to bathe, what and when to eat, and whether to do her prescribed physical therapy are not optimal for her long-term wellness. At the same time, although claimant's extensive self-description emphasized her deficits in self-direction, it also revealed numerous compensatory strategies that claimant uses successfully. The evidence establishes moderate, but not significant, functional limitations in claimant's self-direction.

15. Claimant has lived alone only briefly during her adult life, and does not believe that she could do so successfully now. The evidence establishes, however, that claimant manages medical care and medications both for herself and for her daughter; has learned to identify and avoid financial mismanagement; and can communicate effectively with others about her safety and well-being. Moreover, the evidence establishes that some of claimant's concerns about independent living relate more closely to her physical health problems than to her ASD. The evidence does not establish significant functional limitations arising from ASD in claimant's capacity for independent living.

16. Claimant graduated from law school and is licensed to practice law in California. She has a master's degree in public policy as well. Claimant currently works as her daughter's In-Home Supportive Services caregiver, and also works between 10 and 20 hours per month educating other families with disabled children regarding public benefits. Claimant's presentation emphasized her lifelong employment challenges, and showed that her ability to earn income through employment is not as great as her educational level might predict. Nevertheless, the evidence does not establish significant functional limitations arising from ASD in claimant's capacity for economic self-sufficiency.

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## LEGAL CONCLUSIONS

1. To qualify under the Lanterman Act for WRC's services, claimant must have a substantially disabling developmental disability. (Welf. & Inst. Code, § 4512, subd. (a)(1).) Claimant bears the evidentiary burden in this proceeding of demonstrating her eligibility.

2. Disabilities that qualify under the Lanterman Act as "developmental disabilities" include "intellectual disability, cerebral palsy, epilepsy, and autism." (Welf. & Inst. Code, § 4512, subd. (a)(1).) The Lanterman Act also covers persons with "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.*) As summarized in Findings 4 through 10, the evidence establishes claimant's ASD.

3. A qualifying disability must be "substantial," meaning that it causes "major impairment of cognitive and/or social functioning" through "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." (Cal. Code Regs., tit. 17, § 54001, subd. (a); see also Welf. & Inst. Code, § 4512, subds. (a)(1), (h)(1).) The evidence, as summarized in Findings 1, 2, and 12 through 16, does not establish that claimant has such "substantial" disability.

4. Because of the matters stated in Legal Conclusion 3, WRC did not err in deeming claimant ineligible for Lanterman Act services.

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## **ORDER**

Claimant's appeal is denied.

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.

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**DDS No. CS0018655**

**OAH No. 2024070147**

**ORDER DENYING CLAIMANT’S APPLICATION FOR RECONSIDERATION**

An Administrative Law Judge (ALJ) from the Office of Administrative Hearings (OAH) issued a final decision on this matter on May 13, 2025.

On May 19, 2025, Claimant timely applied to OAH for reconsideration of the decision under Welfare and Institutions Code section 4713 (section 4713). Service Agency and the Department of Developmental Services were notified of the application.



The undersigned hearing officer, who did not hear the matter or write the decision for which reconsideration is requested, was assigned to decide the application.

Pursuant to section 4713, subdivision (b), a party may apply for 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).

In her application, Claimant requests correction of a mistake of fact or law in Factual Findings 13 through 16 of the decision. Claimant asserts the ALJ erroneously found the evidence did not demonstrate Claimant had substantial functional limitations. Claimant argues Service Agency conceded Claimant had substantial functional limitations in at least three areas; the dispute in the matter therefore was not whether Claimant had substantial functional limitations, but whether her limitations were caused by autism spectrum disorder or mental illness.

Service Agency did not file a response to Claimant's application.

Pursuant to section 4713, subdivision (d), an application for reconsideration must be decided within 15 days of receipt; the hearing office responsible for deciding the application may deny it, grant it and modify the decision, or grant it and set the matter for further proceedings.

The wording of section 4713, subdivision (b), as well as the expedited deadline for deciding an application set by section 4713, subdivision (d), make clear that the mistake of fact or law in question must be apparent from the decision, such as an obvious mathematical error in calculating hours of service, an order that fails to accurately encompass the legal conclusions, citation to the wrong statute, or

reliance on a law that is no longer in effect. In such instances, the hearing office can either correct the mistake if the resolution is apparent from the decision or order the matter to be reheard if the resolution is not apparent.

There is nothing in section 4713 suggesting an application for reconsideration contemplates the hearing office reviewing the entire record, including the admitted exhibits and the recorded hearing, to determine if the ALJ made mistakes of fact or law. That process is undertaken in an appeal of the decision to the Superior Court, not in an application for reconsideration pursuant to section 4713.

In this case, Claimant fails to identify the kind of mistake of fact or law discussed immediately above. Instead, Claimant asserts the ALJ improperly disregarded Service Agency's concession regarding Claimant's substantial functional limitations. The decision is indeed silent regarding Service Agency's position regarding Claimant's substantial functional limitations. However, in Factual Findings 13 through 16, the ALJ found Claimant did not have substantial functional limitations in any of the four areas asserted by Claimant, based upon evidence presented at the hearing. There is no mistake of fact or law apparent from a review of the decision alone.

Based on the foregoing, Claimant's application is denied.

IT IS SO ORDERED.

DATE: June 2, 2025

HARDEN SOOPER  
Administrative Law Judge  
Office of Administrative Hearings