

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

In the Matter of:

CLAIMANT,

v.

SAN ANDREAS REGIONAL CENTER, Service Agency.

DDS Nos. CS0019332, CS0019483

OAH No. 2024070645

DECISION

Administrative Law Judge Juliet E. Cox, State of California, Office of Administrative Hearings, heard this matter on August 8, 2024, by videoconference.

Claimant's mother appeared for him at the hearing.

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

The matter was submitted for decision on August 8, 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 was born in August 2019. He lives in San Jose with his parents and sibling.
2. In February 2022, a licensed mental health professional at Kaiser Permanente in San Jose diagnosed claimant with autism spectrum disorder.
3. In June 2022, claimant began receiving in-home behavioral therapy services. SARC arranged these services for claimant through the Early Start program for children younger than three years old (Gov. Code, § 95000 et seq.). Claimant also has received speech therapy and physical therapy services through his medical insurance.
4. Claimant already was almost three years old when he began receiving services through the Early Start program. Because he showed developmental delays, as compared to peers, in communication skills and self-direction, SARC deemed claimant provisionally eligible under the Lanterman Act for continuing services from SARC.
5. As claimant approached his fifth birthday, SARC staff members re-evaluated claimant's potential eligibility for services. They received and reviewed medical records, speech therapy records, and educational records about claimant.

6. Educational records about claimant show him to have poor verbal communication, including unclear pronunciation and limited vocabulary. He demonstrates strong non-verbal communication ability, however, and interacts in a mostly age-appropriate manner with his peers.

7. Claimant's mother describes him as very active. He frequently walks on his toes and has resisted efforts to change this behavior through braces or prompting. He has poor safety sense, although he sometimes listens to adults who try to redirect him from unsafe activities.

8. Claimant started kindergarten on the day of the hearing. His Individualized Education Plan calls for him to spend about one-quarter of his school time in a general education classroom, and the other three-quarters in a special education kindergarten classroom.

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.*) In any case, the "developmental disability" must originate before the person turns 18, and must be lifelong. (*Id.*)

3. 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).) For a child as young as claimant, only the first five of these seven activities are relevant.

4. SARC does not dispute the autism spectrum disorder diagnosis referenced in Finding 2. The information summarized in Findings 6 and 7 does not establish that claimant meets the statutory criteria in Legal Conclusion 3 for substantial disability, however. This record does not show claimant currently to qualify under the Lanterman Act for continuing services from SARC.

ORDER

Claimant’s appeal is denied. As of his fifth birthday, in August 2024, claimant had 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.